

# COALITION FOR COMPETITIVE INSURANCE RATES

## Statement of the Coalition for Competitive Insurance Rates

Submitted for the Record of the Hearing on Reinsurance  
Before the Subcommittee on Select Revenue Measures  
Of the House Committee on Ways and Means

July 14, 2010

The Coalition for Competitive Insurance Rates (CCIR) welcomes the opportunity to provide this statement for the record following the July 14, 2010, House Committee on Ways and Means Subcommittee on Select Revenue Measures hearing on Rep. Richard Neal's (D-MA) bill, HR 3424, which would levy a tax on the US affiliates of foreign based insurers and reinsurers.

CCIR represents the consumer advocates, trade experts, risk experts and members of the insurance industry who have openly opposed the Neal bill. Despite wide-spread opposition to the bill, several witnesses in the hearing, representing the few companies who stand to benefit from this legislation painted an inaccurate picture of the effects of HR 3424. In this submission to the record, CCIR presents a more balanced view of the Neal bill.

### **US Consumers Depend on the Global Insurance Market**

In order to better understand the potential effects of Rep. Neal's proposal, it is important to examine the importance of foreign-based reinsurers to the United States insurance marketplace. Reinsurance is an important tool used by insurers to manage risk. The US requires a large amount of reinsurance capacity to cover events such as natural disasters, large scale industrial accidents, and acts of terrorism. A substantial part of this reinsurance is supplied by non-US reinsurance companies. For example, the United States accounted for 87 percent of worldwide insured catastrophic losses in 2005 and 61 percent in 2006. Because of the large amount of capacity needed to cover property in the United States, US-based companies purchase about two-thirds of their property catastrophe reinsurance -- and approximately half of all their \$100 billion in reinsurance -- from foreign reinsurers.

Recent natural and man-made disasters reveal how the global insurance market works. When Hurricanes Katrina, Rita and Wilma required \$59 billion in insurance payments, more than 60 percent of these payments came from foreign insurers and reinsurers. After the terrorist attack on New York City in 2001, international insurance and reinsurance firms paid 64 percent of all US claims. These payments provided for urgent needs, from compensating injured workers to rebuilding damaged buildings and helping companies get back in business, thereby maintaining the regional and national economies. More recently, with the Transocean Deepwater Horizon oil rig disaster, a compelling fact from published reports is that about 51 percent of the

Transocean property coverage is held by eight insurance companies, only one of which is headquartered in the United States.

### **Widespread Opposition to the Proposed Tax Increase**

Because of the overwhelming importance of foreign-based reinsurers, the threat of the tax levied by HR 3424 – and the eventual insurance price increases -- has aroused a broad spectrum of opposition. Those in opposition include more than 120 independent organizations and individuals, including trade experts, state legislators and officials, consumer advocates, insurance industry representatives and business owners (a list of these opponents is attached). By highlighting many of these opponents' concerns, CCIR hopes to rebut some of the statements made by proponents of this legislation during the hearing and emphasize what is truly at stake should the Neal bill become law.

#### **Fact: HR 3424 is bad for consumers, resulting in less insurance capacity and higher costs.**

When insurance companies, whether domestic or foreign, fight for Americans' business, it's good for consumers struggling to insure their homes and businesses. That is why public policies should encourage, not impede, a robust insurance market open to as many competitors as possible. Any effort to create a punitive tax regime on international carriers will result in less insurance capacity and increased costs for US consumers.

An economic impact study published in 2009 by the Brattle Group, an economic consulting firm based in Cambridge, Massachusetts, found that the Neal bill would cost consumers more than \$10 billion per year and would reduce US reinsurance capacity by 20 percent. Shortly before the July 14 Ways and Means Committee hearing, the Brattle Group released an updated version of the study which showed an even more grave impact on consumers, especially those in disaster-prone states. The report, co-authored by the Brattle Group's Dr. Michael Cragg and Dr. Bin Zhou, along with Dr. J. David Cummins, the Harry J. Loman Professor Emeritus of Insurance and Risk Management at the Wharton School at the University of Pennsylvania, found that HR 3424 would:

- Cost consumers an additional \$11 - \$13 billion per year to maintain their current insurance coverage.
- Significantly weaken competition and reduce reinsurance capacity in the US by 20 percent.
- Reduce supply and increase prices disproportionately on those states most vulnerable to catastrophic losses, such as California, Florida, New York and Texas.
- Increase home insurance costs for Floridians alone by \$266 million, up from the 2009 Brattle Group analysis showing a \$66 million cost increase for Florida's consumers.
- Raise home insurance costs in Texas by \$112 million and by \$28 million in Louisiana.
- Make it more difficult for businesses to obtain insurance.

In their conclusion, the authors of the Brattle Group study stated:

“Adoption of such legislation would be imprudent under the best of conditions, and current conditions are anything but good. The risks due to natural catastrophes have been growing for 20 years, and that trend is likely to continue because of the development that has occurred in areas prone to earthquakes and floods. Moreover, the ability of the government and private industry to absorb shocks still remains tentative due to an uncertain economic recovery, because of a financial crisis that stems from poor risk management in the banking and mortgage industries. Thus, this is an especially poor time to impose a tax that would further jeopardize our economy’s capacity to manage risk.”

**Fact: HR 3424 is especially harmful to the states most at risk from natural and manmade disasters.**

The Neal Bill would be especially harmful to states with histories of natural disasters. In these regions, there has been a crisis of insurance availability and affordability. This problem is especially severe for those who buy certain classes of commercial insurance that have suffered from contractions in the availability of coverage.

Thus, some of the most vocal critics of the Neal bill have come from Florida, a state which knows all too well the importance of wide availability of insurance coverage. These critics include Florida Insurance Consumer Advocate Sean Shaw who stood up during the hearing for his home state consumers who would be adversely affected by HR 3424. Earlier this year, in a letter to Rep. Neal, Shaw voiced his strong objections to this proposal:

“Florida consumers, as property and business owners in a catastrophe-prone state, rely heavily on foreign reinsurers to supply capital to insurers providing property insurance coverage. A substantial amount of this reinsurance protection is provided by foreign reinsurance companies because of their ability to absorb risk. Your proposal to disallow deductions for certain reinsurance premiums ceded to foreign affiliates effectively imposes an additional tax on foreign reinsurance transactions. An additional tax will negatively impact the reinsurance capacity available to insurers to cover Florida consumers. Accordingly, the reduction in supply of private reinsurance will increase the need for state government reinsurance protection and thus increase the risk borne by Florida policyholders. During this time of economic crisis, Florida policyholders should not be bearing additional risk. Consequently, it is imperative to ensure that legislative action does not limit the amount of private reinsurance capacity available to protect Florida consumers against loss.”

Earlier this year, Scott Clark, the secretary and director of the Risk and Insurance Management Society (RIMS) as well as the Risk and Benefits Officer for the Miami-Dade school board published a column in the Miami *Herald* expressing his strong opposition to the Neal bill. As a representative of the largest school district in Florida, Clark represents the interests of nearly 600,000 students. Pointing to recent disasters in the Gulf coast, as well as the massive

destruction wrought by Hurricane Andrew in 1992, Clark emphasized the important role played by foreign-reinsurers and risks posed by the Neal Bill. In his op-ed, Clark said:

“When you tax something punitively, you get less of it. As the Boston-based economics consulting firm, the Brattle Group, concluded in a recent study for the Coalition for Competitive Insurance Rates, the total supply of reinsurance for US companies and consumers would decline by about 20 percent.

When there's less of something, it costs more. According to the same study, Americans would pay an extra \$10 billion to \$12 billion just to continue their current insurance coverage. That is why state insurance commissioners; consumer advocates, business people and state legislators oppose this tax increase.

Americans deserve to be insured against natural disasters, accidents and acts of terror. But US insurers don't deserve to be protected against competition that strengthens the industry and benefits all Americans.”

In addition to the opposition in Florida and other Gulf Coast states, the Neal bill has been publicly opposed by dozens of businesses and consumer groups who would be affected by the proposal. These groups include the Texas Soybean Association, the Louisiana Home Builders Association, the California Farm Bureau Association, the Maritime Exchange for the Delaware River and Bay, and the Arkansas Grocers and Retail Merchants Association.

In California, a state which suffers from natural disasters including forest fires, landslides and earthquakes, both business groups and property owners have written in opposition to the Neal proposal. In a letter to Speaker Pelosi, the Silicon Valley Leadership Group wrote:

“In states like ours, with a high risk of natural disaster, property insurance premiums have risen steadily. Insurance companies face increasing claims from more severe, more frequent disasters.... Taxing reinsurance is the last thing we should do in this crisis. It will drive some insurers out of our state, reducing competition, and force the ones that stay to raise rates.”

These letters represent only a few of the many concerned consumers who have made their objections to the Neal bill known.

**Fact: HR 3424 violates longstanding US tax and trade policy and could result in reprisals against American businesses.**

The Neal bill violates longstanding US tax policy that calls for the application of an arms-length standard for related party, cross border dealings. In the insurance industry, related party transactions are well documented; they are subject to approvals by state insurance regulators and abundant comparative market information is available to use to enforce transfer pricing rules. The Neal proposal contradicts decades of US tax and trade policy, may be inconsistent

with existing US tax treaty obligations and will likely spur retaliatory actions by other countries. Ultimately, the proposal damages relationships with important US trading partners.

One of the foundational principles of the World Trade Organization (WTO) is that a country cannot treat a foreign company worse than it treats its own companies. HR 3424 clearly singles out foreign reinsurers for treatment worse than US reinsurers. Specifically, it subjects foreign reinsurers – but not US reinsurers – to an arbitrary test to limit the tax deductibility of reinsurance premiums paid to them by their US-based affiliates. Just as foreign countries cannot protect their insurance markets for their domestic insurance companies and treat US companies unfairly, we cannot protect our market for our domestic insurance companies and treat foreign companies unfairly. This is why the European Union and several individual countries have complained that the Neal Bill violates US WTO commitments and US tax treaties. In fact, US insurance companies benefit enormously from open markets, and are among the most aggressive in seeking foreign customers.

Shortly after the hearing, Ambassador Klaus Scharioth of Germany wrote to Ways and Means Committee Chairman Sander Levin (D-MI) expressing the concerns of the German government over the Neal bill.

“It goes without saying that the German Government recognizes the US Government's right to combat tax avoidance and evasion. But it is our view that the proposed legislation goes well beyond this objective and, as a result, will be in conflict with provisions of the German-US tax treaty.... The German Government has concerns about the legislation's compatibility with WTO principles, particularly with a view to the obligations related to the General Agreement on Trade in Services.”

With this letter, Germany joins the United Kingdom, Switzerland, and the European Union in publicly questioning the Neal bill's violations of international trade. Earlier this year, Angelos Pangratis, Acting Head of the European Union Delegation to the United States sent a letter to Treasury Secretary Tim Geithner questioning a proposal similar to HR 3424 which has been included in President Obama's FY 2011 budget:

“We believe the proposal is at odds with the principle of a level playing field for all US insurers and reinsurers, by introducing a tax regime which would penalise foreign-owned US insurance companies that reinsure their risks with affiliated foreign companies. This penal tax regime would only apply to foreign-owned insurers; thus it would not result in protecting the US tax base but in creating a disadvantageous tax environment for foreign insurance providers. This could result in higher premiums for US policy holders or even in the withdrawal of non-US operators from the US reinsurance business, leading to job losses for many US citizens employed by those companies.”

Within the United States, trade experts have called into question the international trade ramifications of the Neal bill. One of these experts, Gary Clyde Hufbauer, Assistant Secretary for

International Trade and Investment Policy of the US Treasury during the Carter Administration, published a policy brief with the Peterson Institute for International Economics in April, 2010. In this brief, he outlined why the Neal proposal would be challenged by the WTO and the potential troubles it would cause for this nation's relationships with its trade partners:

“If the Neal bill or something like it is enacted, European countries are almost certain to bring a case against the United States in the WTO and seek whatever redress they can under US income tax treaties. Some European countries might consider tit-for-tat retaliatory legislation that would hurt US- owned insurance companies. While legal and retaliatory battles are waged, some foreign-owned insurance companies might reconsider their presence in the US insurance market—a role that has greatly benefited the US households and firms that suffered catastrophic losses in the wake of 9/11 and Hurricane Katrina.”

Similar concerns were voiced by former US Trade Representative Mickey Kantor in 2009 in response to the Senate Finance Committee's "Staff Discussion Draft" of a proposal similar to HR 3424:

“This proposed measure potentially penalizes US subsidiaries of foreign insurance and reinsurance companies and is not in the United States' best interest, particularly now. If modifications to our tax code are needed, they should be fully consistent with our existing tax and trade treaty commitments. As you know too well, we have fought long and hard with our trade partners to ensure that US investors abroad are treated fairly. If we do not provide fair and equitable treatment to foreign reinsurance firms operating in the United States, we put our own investors at risk of retaliation abroad.”

Clearly, HR 3424 is at best questionable in regards to America's treaty obligations. The strong objections of both close allies and experts in international trade should be cause for concern in the Committee.

**Fact: HR 3424 only benefits a small number of companies**

Supporters of the Neal Bill don't represent the entire US insurance industry, just a vocal minority with its own interests. During the July 14th hearing, the two most vocal supporters of this bill were William Berkley, of the WR Berkley Corporation and John Degan of the Chubb Corporation - two of the very few and very profitable companies who stand to benefit from HR 3424. Unfortunately, these are the very companies who provide precious little coverage in the states which would be most adversely affected by the Neal bill. During his testimony, Sean Shaw stated:

“These companies, consumers, and public officials are the real stakeholders in this issue. It is my understanding that Mr. Berkley's company has no direct written premiums in Florida for home multi-peril insurance and only \$842,000 for commercial

multi-peril. That is less than one tenth of one percent of the total premiums in my state.”

Because of the high risk involved in providing coverage in disaster-prone states like Florida, the very companies who support this bill refuse to provide coverage to these areas. Additionally, despite claims that they are put at a competitive disadvantage, the facts do not support the suggestion that international insurance companies have an advantage over the proponents of the Neal bill in raising capital. By all measures (comparative profitability, stock price, and return on equity) the domestic insurance industry is thriving. Suggestions of its imminent demise due to competition from foreign insurers are exaggerated and unfounded.

At the end of the day, the support for this legislation by companies like Berkley and Chubb comes down to profits and market-share. The uneven playing field created by the Neal bill would force foreign companies out of some of the most competitive insurance markets in the world. The increased cost to these foreign companies would force them to either remove themselves from the marketplace or pass on costs to consumers. When asked recently what his company would do if the market became less competitive, John Degnan responded: “Let me put it this way. If they tried to pass along a price increase in taxes we’ll eat their lunch.” We should not let that lunch be at the expense of US consumers in disaster-prone areas where these companies have no intention of providing coverage.

The domestic insurers who support the Neal bill are but a small minority within the United States insurance industry. Already, dozens of insurance companies, foreign and domestic, as well as insurance industry organizations have publicly opposed HR 3424. These include the Florida Insurance Council, the National Risk Retention Association, and the Vermont Captive Insurance Association and the Captive Insurance Companies Association.

One of the many companies who would be unfairly taxed by this proposal is based in Rep. Neal’s own district. MAPFRE USA Corporation, a US subsidiary of a Spanish company employs 2,000 of the Congressman’s constituents. In a letter sent earlier this year to Rep. Neal, they objected to HR 3424:

“The impact of HR 3424 would be to restrict our ready access to parental support via our affiliate reinsurance program. As a property and casualty insurer, our reinsurance cost is more than \$45 million per year, and the punitive trigger HR 3424 sets for the allowable use of affiliate reinsurance is untenable. That trigger is fundamentally unfair... Beyond the issues in the current trigger, the tax rate imposed under the bill is extremely punitive. It effectively treats all premiums over the benchmark level as profit and subjects it to the US corporate income tax. As you can appreciate this premium is not a profit at all. It is a necessary and essential expense of being a large property and casualty insurer.”

Beyond this, insurance commissioners from around the country have gone on record to say that the Neal bill is a bad deal for the insurance consumers in their states. Contrary to

unsubstantiated and inaccurate claims by William Berkley during the July hearing, HR 3424 faces opposition from a number of insurance commissioners. In a letter to Senator Max Baucus, during the Senate Finance Committee's study of a similar proposal, James Donelon, Louisiana State Insurance Commissioner wrote:

"I oppose any legislation similar to the above referenced discussion draft of the bill regarding reinsurance premiums paid to affiliates pending before the Finance Committee. It is unnecessary and detrimental to the ability of insurers to reinsure risks underwritten in Louisiana."

These sentiments have been echoed by the insurance commissioners of Florida, North Carolina, South Carolina and Mississippi, as well as the Florida Agriculture Commissioner. The very people who are tasked with monitoring insurance transactions within their own states and protecting their citizens agree that the Neal bill is an ill-advised proposal with potentially harmful consequences.

### **Conclusion**

The widespread opposition to the Neal bill should give members of the committee pause. The Neal bill would be damaging to consumers, to the very states which rely on the global network of insurance and reinsurance providers, and to every American company that would suffer from new tensions with our trading partners. Rather than impose punitive taxes on affiliated reinsurance transactions, Congress should seek to make the US system more competitive to attract companies to form and grow in the United States to the benefit of American consumers, especially those in areas at risk of natural disasters such as hurricanes, earthquakes and floods.

Fortunately for American consumers, the property and casualty insurance industry has been largely insulated from the 2008 capital markets crisis. This legislation could create a capital markets crisis for insurance where none exists today nor need occur in the future.

We urge you to be skeptical of legislation that is supported by a handful of self-interested US insurance companies. Whatever additional revenue it may provide in the immediate future will be inevitably paid many times over by US consumers and policyholders.

These proposals are protectionist measures aimed at benefiting some insurance companies at the expense of their competitors and all consumers. The Neal Bill is bad for consumers, bad for an economy recovering from recession, and bad for American businesses and workers striving to survive and thrive in the global economy.

### ***ATTACHED:***

List of organizations who have sent letters of opposition

## The proposed discriminatory reinsurance tax has been publicly opposed by a broad group of concerned individuals and organizations, including:

### **Insurers and Associations**

ARM Tech Insurance Services, Inc  
Ace Group, Ltd.  
Allianz of America  
American Strategic Insurance  
American Traditions Insurance Company  
Arch Capital Group, Limited  
Argo Group  
AGRO National  
Association of Bermuda Insurers and Reinsurers (ABIR)  
CEA - Insurers of Europe  
Captive Insurance Companies Association (CICA)  
Captive Insurance Council of the District of Columbia  
Ceteris  
Coalition for Competitive Insurance Rates  
Cypress Property and Casualty Insurance  
Dublin (Ireland) International Insurance and Management Association (DIMA)  
Edison Insurance Group  
Florida Insurance Council  
Homewise Insurance  
Munich Reinsurance America  
Narragansett Bay Insurance Company  
National Risk Retention Association (NRRRA)  
Pan-European Insurance Forum  
Sunshine State Insurance Company  
Swiss Re  
Vermont Captive Insurance Association  
XL America  
Zurich North America

### **Business and Industry**

Alice Chamber of Commerce (TX)  
American Legislative Exchange Council  
Arkansas Automobile Dealers Association  
Arkansas Grocers & Retail Merchants Association  
Bishop Chamber of Commerce (CA)  
Brownsville Chamber of Commerce (TX)  
Calhoun County Economic  
California Farm Bureau Foundation  
Development Corporation (TX)  
California Association of Non-Profit Housing  
Chamber of Southwest Louisiana  
Chico Chamber of Commerce (CA)  
Dalhart Area Chamber of Commerce (TX)  
Deaf Smith County Chamber of Commerce (TX)  
Downtown Berkeley Association (CA)  
Downtown San Mateo Association (CA)  
Dumas Economic Development Corporation (TX)  
El Campo Chamber of Commerce & Agriculture (TX)  
Glendora Chamber of Commerce (CA)  
Greater Kingsville Economic Development Council (TX)

Groves Chamber of Commerce & Tourist Center (TX)  
Industry Manufacturers Council (CA)  
La Verne Chamber of Commerce (CA)  
Livermore Chamber of Commerce (CA)  
Louisiana Farm Bureau Federation  
Louisiana Home Builders Association  
Louisiana Mid-Continent Oil and Gas Association  
Louisiana Realtors  
Maritime Exchange for the Delaware River and Bay  
Matagorda County Economic Development Corporation (TX)  
Organization for International Investment (OFII)  
Perryton-Ochiltree Chamber of Commerce (TX)  
Perryton Community Development Corporation (TX)  
Rio Grande Valley Sugar Growers (TX)  
San Ramon Chamber of Commerce (CA)  
Sebastopol Area Chamber of Commerce (CA)  
Silicon Valley Leadership Group (CA)  
Southern Delaware Tourism Bureau  
Skid Row Housing Trust (CA)  
South Texas Cotton and Grain Association  
Texas Agricultural Cooperative Council  
Texas City - La Marque Chamber of Commerce (TX)  
Texas Cotton Ginners Association  
Texas Grain and Feed Association  
Texas Independent Ginners Association  
Texas Pecan Growers Association  
Texas Soybean Association  
The Economic Development Alliance for Brazoria County (TX)  
Tri-Valley Innovation Network  
Victoria Economic Development Corporation (TX)

### **Public Officials in Europe**

Delegation of the European Commission - European Union  
Embassy of Switzerland  
Embassy of the Federal Republic of Germany  
HM Treasury, United Kingdom

### **Public Officials in US**

Arkansas State Representative Allen Kerr  
City Commissioner Eunice Pennix, Dade City, Florida  
Florida Agriculture Commissioner Charles Bronson  
Florida Insurance Consumer Advocate Sean Michael Shaw  
Florida State Representative D. Alan Hays  
Florida State Representative Kevin Rader  
Florida State Representative Will Weatherford  
Florida State Senator Garrett Richter

Florida State Senator Jeremy Ring  
Louisiana Insurance Commissioner James Donelon  
Louisiana State Representative Andy Anders  
Louisiana State Representative Chuck Kleckley  
Louisiana State Representative Harold L. Ritchie  
Louisiana State Senator Karen St. Germain  
Louisiana State Representative Kevin Pearson  
Louisiana State Representative Noble Ellington  
Louisiana State Representative Page Cortez  
Louisiana State Senator Dan "Blade" Morrish  
Louisiana State Senator Eric La Fleur  
Louisiana State Senator Julie Quinn  
Mickey Kantor, Former US Trade Representative  
Mississippi Insurance Commissioner Mike Chaney  
North Carolina State Insurance Commissioner Wayne Goodwin  
North Carolina Speaker Pro Tempore William Wainwright  
North Carolina State Representative Bruce Goforth  
North Carolina State Representative David Lewis  
North Carolina State Representative Julia Howard  
North Carolina State Representative Michael Wray  
North Carolina State Representative R. Van Braxton  
North Carolina State Representative Tricia Cotham  
North Carolina State Representative William A. Current  
South Carolina Department of Insurance Director Scott Richardson

### **Consumer Organizations**

Consumer Federation of the Southeast  
Florida Consumer Action Network (FCAN)  
Risk and Insurance Management Society (RIMS)

### **Free Enterprise Advocacy Groups**

Center for Freedom and Prosperity  
Americans for Prosperity  
Americans for Tax Reform  
Competitive Enterprise Institute (CEI)  
Freedom Works