

Oral Testimony of Mike Sapnar

House Financial Services Committee's Subcommittee on Insurance, Banking and Community Opportunity

Good afternoon. My name is Mike Sapnar and I am the CEO of Transatlantic Reinsurance Company. I am here on behalf of my company and the Reinsurance Association of America (RAA). We applaud Chairman Biggert for holding this important hearing. I am grateful for the opportunity to address the Subcommittee on the impact of regulatory impediments on US reinsurance companies. As you know, there is not a long list of US domiciled reinsurers with global operations. Our written statement details the reasons why the list is short. That aside, I would like to focus my comments, using Transatlantic as an example, on four of these issues:

- Increased protectionist regulatory policies abroad.
- Increased regulatory oversight of reinsurance abroad
- The historical absence of a Federal Regulator for (re) insurance in the US
- The tax disadvantage of US domiciled reinsurers

First, here are two facts that underscore the gravity of these issues:

1. There were 5 major worldwide property catastrophe losses in the last 24 months totaling over \$125B. 62.5% of these losses will be paid by reinsurers and 96% of that amount will be paid by reinsurers outside the country in which the loss occurred.
2. Of the 50 new global reinsurers formed since 2001, exactly none were formed in the US. In fact, since 1989, no new global reinsurer has chosen the US as its home domicile.

Transatlantic, founded in 1978, is a leading global property and casualty reinsurer domiciled in and regulated by the State of New York. We are licensed in all 50 states as well as many

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countries around the world. We have one main operating company in New York with a global network of 17 branches. This structure provides a strong, single balance sheet approach allowing us to deliver a cost effective product while offering local service and superior financial security.

Despite the global capital role that reinsurance plays, Transatlantic has encountered protectionism policies in many foreign jurisdictions, notably Asia and Latin America. These barriers include:

- Limitations for foreign companies on direct investments in domestic entities
- Mandatory cessions by local insurers to specified reinsurers.
- Right of first refusal for domestic reinsurers
- Punitive minimum capital levels
- Restrictions on cross-border flows

Often, the countries imposing these barriers are emerging insurance markets. Transatlantic does not suggest that the US consider retaliatory policies. Instead, our collective goal should be to educate developing insurance markets on the value of free trade, regulation without strangulation and the syndication of risk. We believe the Federal Insurance Office can play an important advocacy role on this issue and elsewhere.

In particular, the FIO can play an important role helping US companies address overseas regulatory issues. Following the 2008 Financial Crisis, foreign regulators are more aggressive on how they oversee US reinsurance branches.

One such example is the proposed implementation of the EU's Solvency II directive and its threat to our operations. We have 3 branch offices in Europe operating off our single balance sheet, thus we do not have to segregate our capital. This mitigates infrastructure costs, currency

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issues and value-added taxes. In addition, clients receive local service while tapping our full financial resources. Regulators, meanwhile, can interface with local Company contacts and readily access records for inspection and oversight.

Nevertheless, the UK regulator has pointed to the fact they did not have a solitary US insurance regulator to coordinate with when setting its strategy for the regulation of US reinsurance branches under this new Directive. They noted that the regulation of US insurers varies by state. They felt their only options were either to apply their own regulatory scheme on an extraterritorial basis or require a separately capitalized subsidiary in the EU, which could be consistently regulated under Solvency II.

With this new approach, Transatlantic faces a difficult choice – close our UK branch to avoid dual global regulation by the UK FSA and the NY Department of Financial Services, or establish a UK subsidiary with separate infrastructure, capital and increased cost.

Ironically, during this same period, the NAIC and several states were focused on relaxing their regulation of foreign reinsurers. Thus, while US companies are facing heightened requirements in the EU, US regulators are lowering barriers at home. An active FIO would serve three purposes here:

- advocate on the behalf of all US domiciled companies for fair treatment in International Jurisdictions;
- provide a single gate for foreign regulators to interface with US insurance regulators; and
- co-ordinate policies at home with issues abroad.

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We cannot stress enough the potential value in these three areas of a well-resourced, single US regulator.

Finally, the United States needs to narrow the tax disparity. The US has the highest corporate tax rate in the world combined with a punitive treatment of controlled foreign corporations. Companies like us face a higher cost of capital over time. Lowering the tax rate or amending the taxable base will not only allow domestic companies to better compete globally but it will encourage new or existing reinsurers to locate here. In fact, a revised corporate tax structure with an empowered, advocating Federal regulator would be a compelling environment for many reinsurers, which would bring both jobs and capital to the US.

TRC wishes to thank Chairman Biggert and members of the Subcommittee for this opportunity to comment and we look forward to working with all members of the Subcommittee on these important issues.