1212 New York Ave. Street N.W.
Suite 900
Washington, DC 20005
202.525.5717

Free markets. Real solutions.
[***www.rstreet.org***](http://www.rstreet.org)

Feb. 8, 2018

OPPOSE H.R.4537, the International Insurance Standards Act of 2017

Dear Member,

I write to urge that you oppose legislation that may soon come to the House floor: H.R.4537, the International Insurance Standards Act of 2017.

The bill would require that any and all federal officials participating in negotiations related to international insurance agreements "shall use their voice and shall vote to oppose, any proposed agreement or standard" that differs in any way from existing federal law, or even any state law. The bill also requires that federal negotiators consult with state insurance commissioners in a process the Congressional Budget Office estimates would cost up to $500,000 annually.

The effect of this legislation would be to render insurance a topic permanently off the table in international trade negotiations. It would tie negotiators' hands from offering any changes in domestic rules as concessions or inducements for opening more of the $4.73 trillion global insurance market to U.S. firms. While the United States had a $72.5 billion trade surplus for other financial services in 2016, there were $48.1 billion of insurance services imports against just $16.3 billion of insurance services exports.

Trade negotiators long faced challenges in advocating for U.S. insurance interests abroad because, as a completely state-regulated industry, federal officials were limited in their ability to propose binding regulatory commitments. The Dodd-Frank Act sought to address this deficiency by creating the U.S. Treasury Department's Federal Insurance Office and giving it advisory power to pursue "covered agreements" that could in some cases pre-empt state law.

The covered agreement process already has borne fruit in the form of the US-EU Covered Agreement, finalized in September 2017. Under the agreement, the European Union agreed not to impose local presence requirements on U.S. firms operating in EU markets. In exchange, the United States committed to eliminate protectionist state reinsurance collateral requirements within the next five years.

Moreover, while state regulators no doubt must be included among the stakeholders whose input is to be valued by the federal executive and legislative branches, requiring that officials of the U.S. Treasury Department, the Office of the U.S. Trade Representative or any other federal official must submit to a statutorily mandated consultation with state officials amounts to a direct contravention of Article VI, Clause 2 of the U.S. Constitution. In the insurance context, this question already has been answered definitively by the U.S. Supreme Court in the 2003 decision *American Insurance Association v. Garamendi*. Federal law is the supreme law of the land.

Trade in services—and particularly, financial services—is an area where the United States already enjoys enormous competitive advantages on the global stage. Congress should be deeply skeptical of any proposal that would limit the country's ability to forge new international agreements that could bring more U.S. insurance capital and know-how to markets all over the world.

Sincerely,

R.J. Lehmann
Director of Finance, Insurance and Trade Policy
R Street Institute