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Obama Administration Insurance Regulatory Reform -- Except for Health, No Big Plans

Though the specific details must await actual legislation, the Administration's White Paper on financial regulatory reform released June 17th appears to devote relatively little attention to insurers focusing mainly on banks, securities firms, consumer lending, mortgage brokers and derivatives. The Administration takes no position on an optional federal charter for insurance companies, although it acknowledges that the current state-based system is "highly fragmented, inconsistent and inefficient".

The principal insurance-related initiative discussed in the White Paper is creation of an Office of National Insurance ("ONI") within the Treasury Department. ONI would monitor insurance industry developments, act as a central clearinghouse for insurance industry information for Congress and the Executive Branch, and negotiate international insurance agreements on behalf of the Government. Exactly how the ONI would interact with the existing fifty-four state and territorial regulators is left unexplored.

One other potential role for ONI, according to the White Paper, is to refer to the Federal Reserve for solvency regulation large insurance companies whose impairment would jeopardize the stability of the financial markets as a whole. Again, how the Federal Reserve would integrate

and coordinate its oversight of these insurers with existing state insurance regulatory regimes must await the actual terms of the legislation and implementing regulations.

President Obama's proposal also includes the establishment of a federal Consumer Financial Protection Agency. The White Paper discusses credit cards and mortgages as examples of financial products that this new agency would regulate, but insurance is not mentioned. It is noteworthy, however, that in his interview with The Wall Street Journal on June 16th the President cited annuities as an example of the need for "common sense protections" concerning disclosure to consumers. The new federal agency is unlikely to preempt current state insurance regulations governing annuities, but there is at least a possibility that the federal government will promulgate a set of annuity disclosure rules that will supplement current state laws.

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