

**Congress of the United States**  
**Washington, DC 20515**

April 7, 2017

The Honorable Steven Mnuchin  
Secretary  
U.S. Department of Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220

The Honorable Stephen Vaughn  
Acting Ambassador  
Office of the U.S. Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, D.C. 20508

Dear Secretary Mnuchin and Acting Ambassador Vaughn:

We write regarding the January 13, 2017, Covered Agreement negotiated by representatives of the Department of Treasury and the Office of the U.S. Trade Representative (USTR) with the European Union (EU). Specifically, we request that the agreement not be signed without formal clarifications to ambiguous points in the agreement through an exchange of letters. We strongly believe these additional clarifications are needed to protect U.S. policyholders and the sanctity of the U.S. insurance regulatory structure.

Unlike the EU – which has two formal approval mechanisms by the European Commission and the European Parliament before ratification can occur – no formal approval mechanism exists for the U.S. Congress. Rather, a 90-day “layover” period exists during which time Congress may review the agreement. Notwithstanding our concerns about this inadequate process, a valuable purpose of the layover period is for Congress to communicate with the Treasury Department and the USTR to seek clarifications or addenda to the agreement, which this letter serves to accomplish.

Since the completion of the agreement, the House Financial Services Committee’s Subcommittee on Housing and Insurance held a hearing to review the agreement in addition to numerous stakeholder meetings with all various impacted groups. There appears to be a broad consensus amongst stakeholders that, at a minimum, additional clarifications are necessary to address ambiguities in the agreement to ensure all parties subject to the agreement are clear in their obligations going forward.

If clarifications are not made, we are concerned that the agreement could commit the U.S. to making significant, and potentially harmful, changes to the way the U.S. and the States regulate the domestic insurance industry. Moreover, due to the structure of the agreement that allows either party to easily withdraw if there is a disagreement over its implementation, it is in the strong interest of those stakeholders who support the deal to obtain clarification before it is signed to ensure that it can be properly implemented. The below requested clarifications are in line with stakeholder testimony, including, the former Director of the Federal Insurance Office – the lead U.S. negotiator of the agreement – and would help legally cement the claims he made before the Committee.

Specifically, we have identified the following issues that could use clarification, including:

- 1) confirming that the requirements in Article 4(h) for a group capital assessment are fully satisfied by the Group Capital Calculation (GCC) as currently being developed by the State insurance commissioners;
- 2) clarifying the expectations on collateral reduction prior to the five year implementation deadline and that the agreement's collateral changes only apply prospectively and do not retroactively eliminate prior reinsurance collateral obligations under reinsurance contracts entered into prior to the effective date of the agreement;
- 3) ensuring that the EU recognizes the soundness of the U.S. regulatory system and will not exert their discretionary group supervision authority over non-EU insurers absent actual concerns developed through the supervisory college;
- 4) clarifying the circumstances under which U.S. insurance regulators can request information from foreign affiliates of a U.S. insurer, and the continued applicability of State insurance holding company laws to a U.S. insurer and its affiliates;
- 5) confirming that, in the absence of collateral requirements, regulators can apply other measures to the ceding insurer to address risks posed by reinsurance counterparties;
- 6) clarifying the membership, nature, and purpose of the Joint Committee, including the participation of State insurance regulators; and
- 7) clarifying that the definition of control of a U.S. domiciled reciprocal insurer where a third party serves as its "attorney-in-fact" in the agreement is consistent with current U.S. law.

As you know, seeking clarifications to international agreements is a common practice usually achieved through a formal exchange of letters at the signing ceremony. This exchanging of letters should provide a more detailed legal explanation of the aforementioned issues. We are greatly interested in working with you on the precise language that would be contained in such a clarification.

Given the recent transition in Administrations and the EU's long held desire to lower collateral requirements for reinsurance transactions, we believe the EU will be willing to have a constructive dialogue and play a positive role in trying to reach consensus on these important issues.



The U.S. insurance industry plays a vital role both in protecting American policyholders from financial loss and helping encourage important economic development and growth. The state-based regulatory system that governs this vital market has served us well for over 150 years. It is critical that our U.S. insurance industry continues to play these important roles under its current sound and robust regulatory regime.

Thank you for your consideration of our request and we look forward to working closely with you on this important issue.

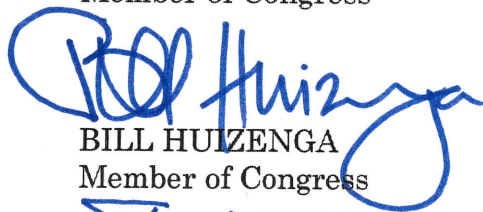
Sincerely,



SEAN DUFFY  
Member of Congress



DENNIS ROSS  
Member of Congress



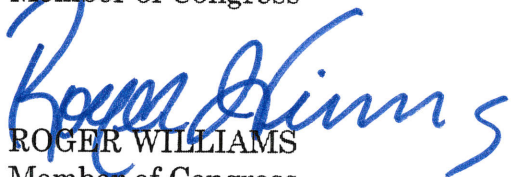
BILL HUIZENGA  
Member of Congress



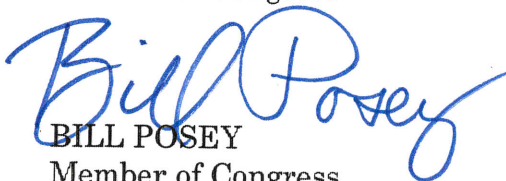
STEVE STIVERS  
Member of Congress



DAVE TROTT  
Member of Congress



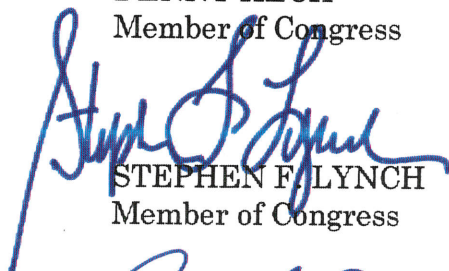
ROGER WILLIAMS  
Member of Congress



BILL POSEY  
Member of Congress



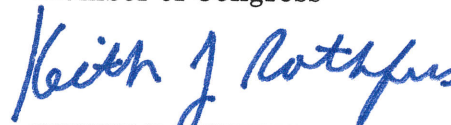
DENNY HECK  
Member of Congress



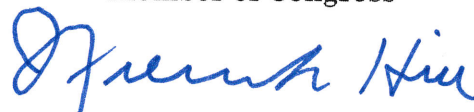
STEPHEN F. LYNCH  
Member of Congress



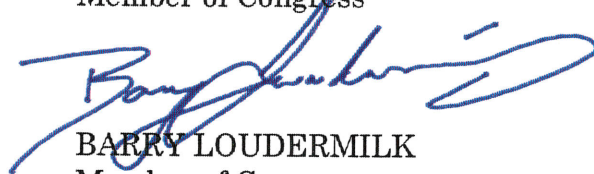
BRAD SHERMAN  
Member of Congress



KEITH ROTHFUS  
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FRENCH HILL  
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BARRY LOUDERMILK  
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SCOTT TIPTON  
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MIA B. LOVE  
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ANDY BARR  
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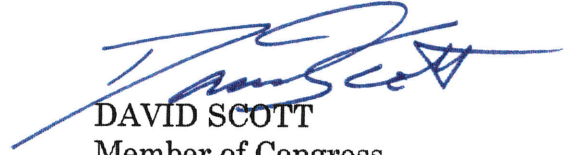
RANDY HULTGREN  
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