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Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

**Re: Comments Concerning the Proposed Transatlantic Trade and Investment Agreement
(Docket USTR-2013-0019)**

The American Insurance Association (AIA) is pleased to submit these comments pursuant to the Office of the United States Trade Representative's (USTR) Request for Comments Concerning the Proposed Transatlantic Trade and Investment Agreement, published April, 2013. AIA has consulted with our counterparts in the life insurance sector at the American Council of Life Insurers and in Europe at Insurance Europe. While these comments are submitted by AIA alone, we believe our organizations support the same approach to this initiative.

AIA is the leading property-casualty insurance trade organization in the U.S., representing approximately 300 major U.S. insurance companies that provide all lines of property-casualty insurance to consumers and businesses in the United States and around the world. AIA members write more than \$117 billion annually in U.S. property-casualty premiums and approximately \$225 billion annually in worldwide property-casualty premiums. AIA members make up some of the most globally active property-casualty insurers.

AIA supports strongly the key recommendations of the Final Report of the U.S.-EU High Level Working Group on Jobs and Growth (HLWG) and the announcement by the U.S. Government and the European Commission of the intent to begin negotiation of a Transatlantic Trade and Investment Partnership (TTIP). The transatlantic relationship constitutes the largest economic relationship in the world. Bilateral trade and investment in the insurance sector alone exceeds \$185 billion a year, and the EU and U.S. together represent 74% of global premium income.

We propose a "two track" process for the TTIP's approach to insurance. Track one would be a continuation and elevation of the current EU-U.S. Insurance Dialogue Project, which focuses on regulatory communication and confidence building to resolve practical "behind the border"

regulatory issues; and track two for traditional trade, horizontal procedural and transparency issues.

Track One: Insurance Regulation and Supervision

We appreciate the recognition by the HLWG of the importance regulation increasingly plays with regard to extracting greater economic gains and jobs from the transatlantic economic relationship. We also applaud the HLWG for understanding the complexity of regulation and it being different than the traditional market access and discriminatory treatment a trade negotiation is designed to remedy. These regulatory sensitivities extend to insurance and reinsurance as both are highly regulated industries which will require innovative approaches with both sides needing to be creative, flexible and open-minded in developing negotiating solutions which respond to the specific characteristics of our industry.

Thus, we believe that the TTIP agenda for insurance regulatory matters should not duplicate or adversely impact the ongoing EU-U.S. Insurance Dialogue Project, but rather it should complement it by providing political support to ensure milestones are met in a timely manner and the current level of momentum is maintained.

The Insurance Dialogue, launched in December 2011, produced the “EU-U.S. Dialogue Project Technical Committee Reports, Comparing Certain Aspects of the Insurance Supervisory and Regulatory Regimes in the European Union and the United States” in December of 2012. We believe that this process, which is led by the European Commission, the European Insurance and Occupational Pension Authority (EIOPA), the U.S. Federal Insurance Office and the U.S. state insurance regulators through the National Association of Insurance Commissioners (NAIC), reflects the vision of the final report of the HLWG as it can apply to our industry.

Having said this, we agree with the TTIP vision that through enhancing regular-to-regulator understanding, our respective authorities will be able to agree to address “behind-the-border” obstacles to trade, while maintaining and enhancing not only national and bilateral insurance supervision but leading enhanced global standards setting which does not limit the capacity of U.S. and EU firms to innovate and compete in global markets. Thus, not only is close co-operation important for transatlantic business flows, but by working more closely together we can make an important contribution to the shape of global (re) insurance supervision and regulation.

Many large European and U.S. insurers have a significant amount of their premium originating from the other side of the transatlantic relationship which is either transacted on a cross border basis, or through establishing branches or subsidiaries. The companies conducting these business transactions increasingly find themselves subject to duplicative regulatory requests; with supervisors, including those only supervising solo entities, wanting to gain a more holistic view of entire insurance groups operations. This dynamic is increasingly becoming global in scope, and having the U.S. and EU develop a process for success would go a long way toward developing a global model.

Publication of the draft Technical Report of the Insurance Dialogue Project summarizing the output of their dialogues signifies the end of Phase I of this exercise. Phase II which has now commenced is intended “to lead to policy decisions by the respective organizations, regarding whether and how to achieve further harmonization in regulation and supervision”. We encourage all parties (European Commission, the European Insurance and Occupational Pension Authority (EIOPA), the U.S. Federal Insurance Office and the U.S. state insurance regulators through the National Association of Insurance Commissioners) to proceed with their five year roadmap of drafting annual reports documenting progressive improvement in building mutual understanding and incremental implementation of reforms which address longstanding irritants.

This Phase II presents an opportunity for the TTIP to support and complement the Insurance Dialogue Project. We would like the TTIP to recognize this report and elevate it to an annual report to leaders, with a political level mandate to dedicate the necessary resources to maintain the current momentum and produce results. We call for this along with the political confirmation that the transatlantic insurance and reinsurance relationship is too important to let slip into stagnation and that stake holders on both sides should recognize that it is in our mutual interest to move beyond the issues which should be solvable by ongoing dialogue, and challenge all parties to work in the broader interests of our mutual national interests to create economic growth and jobs.

Track Two: Insurance Trade Negotiations and Horizontal Trade Issues

As described earlier, the insurance trade between the U.S. and the EU marks one of the most important relationships in the global insurance system. While trade between the U.S. and the EU is generally open, there are improvements that could be achieved through a trade negotiation that could lead to increased insurance trade across the Atlantic and set global standards for open insurance markets.

The TTIP should strive for full market access and national treatment of insurance trade without exception, including freedom from restrictions on specific types of legal entity through which services are delivered, freedom from discriminatory treatment, and the absence of quantitative restraints and investment restrictions. Attention should be paid to ensuring that cross-border insurance trade (Mode 1) is not inhibited. Both governments should seek to allow greater cross-border insurance trade access.

In the Final Report of the US-EU High Level Working Group on Jobs and Growth, the US and the EU agreed to reach a bilateral agreement on “globally relevant rules, principles or modes of cooperation” in a number of thematic areas, including state-owned enterprises (SOEs) benefitting from subsidies and other governmental privileges. In insurance, SOEs have distorted markets in a number of major countries, and it is therefore appropriate for the US and the EU to work together to develop “globally relevant” principles to address market distortion by SOEs across sectors.

The TTIP should also ensure that horizontal disciplines on services auxiliary to insurance trade are not disrupted, including the ability of insurers to store and process corporate data in a manner that best fits their corporate model. Prohibiting the free flow of data imposes added costs and operational burdens on insurance suppliers and interferes with data outsourcing arrangements, offline back office operations, and the use of cloud computing. Furthermore, doing so does not serve any prudential purpose that could not be achieved through less burdensome measures. Special attention should be paid to the EU's emerging General Data Privacy Regulation (GDPR) and the potential for those regulations to disrupt insurance trade.

Related to data flows, we believe that the GDPR's proposals for collective redress would encourage abusive litigation that would raise costs for insurers and consumer substantially while doing nothing to protect data privacy. The enormous costs for insurers associated with poorly-implemented regulations that would discourage U.S. participation in the European market. We hope that the TTIP process can be used to encourage the EU to implement a data protection plan that causes as little disruption to insurance trade as possible.

The TTIP should establish investor-state dispute resolution procedures and make them available for disputes arising under any provision of the TTIP. Dispute settlement proceedings should be open to the public, conducted on the record, and should permit participation by interested parties.

AIA believes the negotiations of a TTIP should create a transparent consultation process for the establishment of any measures taken under the "prudential carve out" across sectors. This will provide transparency with regard to where restrictions remain, as well as hopefully a list of issues to be addressed in the future.

Conclusion

Recognizing the immense importance of the economic relationship between the U.S. and EU for the insurance sector and for our larger economies, AIA supports strongly the efforts underway to forge a TTIP. We look forward to working with USTR and the other agencies involved in the U.S. and the EU on this important initiative.