U.S.-EU High Level Working Group

The American Insurance Association (AIA) represents more than 300 insurers, including companies based in the U.S. that engage in significant business in the European Union (EU) and the U.S. subsidiaries of companies based outside of the U.S., including in the EU. In total, these companies annually collect more than $100 billion in premiums.

We, therefore, appreciate the opportunity to provide our views on whether to include as part of this initiative, the determination of third country equivalence for the U.S. under the European Union's Solvency II Directive and implementing measures. In short, the equivalence issue meets all of the criteria for inclusion in the initiative, and should be included if this is the best mechanism for achieving the desired result of equivalent treatment of the U.S. and EU insurance regulatory systems that is essential for the well being of the people of both the U.S. and EU.

Options for increasing trade and investment

Solvency II equivalence for the U.S. meets the criterion for inclusion in the Working Group's agenda in that it "involves the reduction, elimination or prevention of barriers to trade in goods, services, and investment". Specifically, insurance trade between the U.S. and EU amounts to tens of billions of dollars annually and provides critical insurance coverage for individuals, families, governments, nonprofits and businesses that in turn allows them to provide employment on both sides of the Atlantic.

By and large, trans-Atlantic insurance commerce flows relatively freely across the Atlantic. EU based insurers currently comprise 9% of the U.S. property-casualty insurance market and many U.S. insurers have significant investments and operations in the EU.

Solvency II, Europe's insurance solvency regime scheduled to be effective 2014, provides that for insurers based outside of the EU (including the U.S.) to be treated equally with EU based insurers in the EU, the solvency regimes of the countries where they are headquartered, must have been determined to be “equivalent” with regard to reinsurance, group supervision and group capital regulation. The failure to deem the U.S. equivalent could harm U.S. insurers doing business in the EU by potentially requiring them to restructure and/or provide more capital, thereby disadvantaging the U.S. companies and inviting retaliation by the U.S. At the very least, these events would reduce over-all capital and the capacity to write insurance and restrict competition.

Short and Medium-term Impact on economic growth, job creation, and competitiveness

The short and medium-term impact of a failure to treat the U.S. as equivalent could well include harsh new EU mandates imposed on U.S. companies, to restructure, increase their capital, or both. In turn, this would make U.S. companies less competitive in the EU and cause them to lose market share, income and jobs. Should the U.S. retaliate, negative impacts would be felt by the U.S. operations of EU insurers. The harm would then be spread to the general economy in terms of less insurance capacity, competition and choice for business, governments, nonprofits and individuals.

Feasibility

The EU has already approved Solvency II, including the equivalence element, and it is due to go into effect in 2014. Currently, EU institutions are considering how to implement the equivalence provisions, including whether there should be transitional mechanisms for equivalence. Therefore, it is quite feasible for this group to take up the issue. In fact, due to the absence of a resolution at this point and the immediacy and extent of deliberations in the EU, it is both timely and important that the Working Group consider taking on the equivalence issue.

Implications for, and consistency with, bilateral and multilateral trade obligations

European countries and he U.S. have longstanding liberalization commitments embodied in many agreements, including the General Agreement on Trade in Services and documents relating to the Organization for Economic Cooperation and Development. These and other agreements and decades of mutually open markets establish the principle that each side can regulate based on its own objectives but that insurers based in countries on the other side of the Atlantic should be treated fairly in comparison with domestic competitors.

General Comments

As noted earlier, current trans-Atlantic insurance commerce is significant and is critical for a wide range of policyholders and the general economy and should not be disrupted. This commerce is subject to comprehensive U.S. and EU regulatory systems that well protect consumers, as demonstrated during the recent financial crisis. These systems, including their standards and enforcement tools, are also undergoing continuous improvement, a process that started before the financial crisis.

The Solvency II equivalence process should not attempt to mandate conformity but instead should encourage dialogue for the benefit of the trans-Atlantic insurance system. On the other hand, proscriptive and detailed mandates on the other's regulatory system are neither warranted nor would they be productive. In fact, attempting to impose the other's system on either side of the Atlantic will likely result in harm to the marketplace and to the general economy.

Conclusion

For these reasons, we urge effective high level engagement that will bring about an outcomes based result in the Solvency II equivalence deliberations. Failure to treat both insurance regulatory systems as equivalent will harm not only the insurance markets but the general economies on both sides of the Atlantic that rely on having healthy, competitive insurance markets.

Respectfully submitted,

David F. Snyder,

Vice President and Associate General Counsel,

American Insurance Association