Offshore insurance update

PRICEWATERHOUSECOOPERS

Foreign reinsurers offer study to show Neal/Baucus proposals could hurt consumers

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Opponents of proposed legislation that would eliminate perceived tax advantages available to foreign reinsurers pointed to a May 1 study which indicates that proposed legislation would cost consumers in the U.S. an additional $10 billion to $12 billion per year.

The Impact on the U.S. Insurance Market of a Tax on Offshore Affiliate Reinsurance: An Economic Analysis (the "Study") was conducted by economic consulting firm Brattle Group and paid for by the Coalition for Competitive Insurance Rates, said Rep. Richard Neal's (D-Mass.) proposed legislation (Sen. Baucus is considering similar legislation) would reduce the supply of primary insurance in the U.S. by 1.8 percent and increase the cost of insurance by an equal amount.

The Study indicates that the supply of reinsurance in the U.S. would fall by $19 billion to $22 billion, which represents 20 percent of all reinsurance and 40 percent of all foreign reinsurance.

In some lines of insurance, the Study said, the price of primary insurance could rise by more than 16 percent.

"Past evidence in insurance markets indicates that when reinsurance capacity is reduced, consumers will find it difficult to obtain insurance in certain classes of business," the Coalition for Competitive Insurance Rates said.

Neal is considering the legislation as a way to remedy the competitive pressures put on U.S. insurers by current tax laws, which allow a U.S. affiliate of a foreign-based company to avoid paying U.S. tax on much of its domestic underwriting and investment income by reinsuring its business with an insurer that is domiciled offshore.

U.S. affiliates of foreign reinsurers can use deductions for premiums paid to foreign affiliates, but U.S.-based insurance companies do not get such benefits and must pay the U.S. taxes on all of their investment and underwriting income and thus creating an advantage for the foreign owned reinsurer.

However, the Study implies that the logic behind the Neal bill is a fallacy. In "actuarially priced reinsurance" premiums plus investment income will equal paid losses. The losses incurred by foreign reinsurers have no adverse impact on the U.S. Treasury.

Although the bill is intended to help U.S. based companies, many smaller U.S. insurers and regulators in hurricane-prone regions of the country have argued against it out of concern that it would make insurance more difficult to obtain.

Supporters of the Neal bill took issue with the Brattle Group's study, arguing that the study's findings that the legislation would reduce competition or insurance availability "are untrue and do not reflect marketplace realities."

Neal introduced legislation in 2008 as H.R. 6969. It has not yet been reintroduced yet in the current Congress and was not included in President Obama's administration budget.

For additional information please call Richard E. Irvine at (441) 299-7136 or contact your local insurance tax professional.

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