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Office of the U.S. Trade Representative
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**Outline of Industry Objectives & Relationship Between:
Transatlantic Trade and Investment Partnership (TTIP) & EU-U.S. Insurance Dialogue**

Introduction

The American Council of Life Insurers and Insurance Europe strongly support the intent to negotiate a Transatlantic Trade and Investment Partnership (TTIP). The transatlantic insurance relationship constitutes the largest such economic relationship in the world with bilateral trade and investment in the insurance sector alone exceeding \$185 billion dollars a year.

However, as recognized by the High Level Working Group (HLWG) in its final report, more can still be done to “strengthen the contribution of trade and investment to support mutually beneficial job creation, economic growth, and international competitiveness.” We agree and believe it to be especially true of the insurance sector, which would significantly gain from inclusion in a TTIP.

In its final report the HLWG suggested that negotiations on a comprehensive trade and investment agreement should aim to achieve ambitious outcomes in three broad areas:

- Market Access
- Regulatory issues and non-tariff barriers; and
- Rules, principles, and new modes of cooperation to address shared global trade challenges and opportunities

Insurance is a highly regulated sector. Therefore, although we see benefits stemming from enhanced market access and establishment of rules, principles, and new modes of cooperation to address global challenges and opportunities, we believe the greatest benefits for our industry will come from addressing regulatory issues.

Market Access

Consistent with their commitments under World Trade Organization's (WTO) General Agreement in Trade on Services (GATS), we would like to see the EU and U.S. work towards full market access and national treatment for the insurance sector, including freedom from restrictions on the specific types of legal entity through which services are delivered.

While this is an important goal, we recognize, due to financial stability, investor or policyholder considerations, challenges will arise. Where this is the case we would like to see a list of non-discriminatory prudential carve-outs detailed. In addition, we believe the negotiations of a TTIP should establish a transparent consultation process for the establishment of any such carve-outs and going forward a process for the discussion of the application of such provisions. This will provide transparency with regard to where restrictions remain, as well as hopefully a list of issues to be addressed in the future.

Regulatory Issues

We appreciate the HLWG recognizing the important role regulation plays in generating greater economic growth and jobs. We also applaud the HLWG for understanding the complexity of regulation and making the distinction between it and conventional barriers to trade. As noted above, insurance is a highly regulated industry which we believe has much to benefit from greater regulatory cooperation, understanding and ultimately recognition of where the same regulatory outcomes are achieved through different means.

A practical example of where this would be beneficial can be seen in the area of group supervision. Many European and American insurers have a significant amount of their premium originating from the other side of the Atlantic, 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 an entire insurance groups operation. We would therefore, like to see greater cooperation and coordination between the supervisors involved and, ultimately, recognition of robust supervision conducted elsewhere.

We recognize that this will require an innovative approach with both sides needing to be creative, flexible and open-minded in developing negotiating solutions which respond to the specific characteristics of our industry. To these ends we are very supportive of the insurance dialogues currently being conducted between the EU-U.S. and the publication of a Technical Report summarizing the output of their dialogues in December 2012. Publication of the report 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".

Alongside the final Technical Report, a “Way Forward Document” was also published at the end of 2012 setting out common objectives and initiatives to be pursued over the next five years. We hope this closer regulatory cooperation should address issues of key concern to our respective insurance markets, namely collateral requirements for reinsurance and Solvency II equivalence. These work plans will take time to implement, but commitment to achieving an agreed end goal has never been higher.

Thus, we believe that the TTIP agenda for insurance regulatory matters should not seek to duplicate the insurance dialogues which are already on-going, but rather it should be complimentary, providing political support to ensure milestones are met in a timely manner and the current level of momentum is maintained. We also welcome the increased transparency to stakeholders over the last 12 months and in particular the publication of the Technical Report. We would like to see this continued through the publication of an annual report on the pace of progress going forward.

Cross-Cutting Regulatory Issues

In addition to market access and the focused work of the regulatory dialogue project, we would also welcome the inclusion of cross cutting disciplines, regulatory best practices, transparency requirements, and new regulatory cooperation tools in the TTIP which would be applicable to all regulatory decision-making, including those decisions impacting financial services regulations, including insurance. These cross-cutting regulatory obligations should recognize existing U.S. and EU domestic laws and rules. We would like to suggest the following items for inclusion:

- Establishment of a mandate that encourages all regulators to strive to determine and reach equivalence between regulatory frameworks based on outcomes even as those outcomes may be achieved in different ways.
- Development new tools that include a trigger, methodology, and transparent process for review of both ex-ante and ex-post regulations deemed to be important to the transatlantic economy.
- Commitment to avoid the imposition of trade restrictive measures and limit extraterritorial impact of regulatory decisions, including for example those on the cross border provision of auxiliary services such as data processing.
- Establishment of a political level mechanism at the highest levels within both governments to review regulatory cooperation efforts across all sectors with the expectation of delivering incremental progress.

Global Trade Challenges and Opportunities

The EU and U.S. together represent 74% of global premium income. Working together we can make an important contribution to the shape of global insurance supervision and regulation. Many of the same regulatory issues that are being discussed bilaterally are also topics for discussion in the international forums such as at the International Association of Insurance

Supervisors (IAIS) and Financial Stability Board (FSB); therefore, any agreements reached through the TTIP must not be viewed in isolation, but rather in the context of the global discussions.

In addition, in the Final Report of the HLWG, the U.S. 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 U.S. and the EU to work together to develop “globally relevant” principles to address market distortion by SOEs.

Conclusion

In conclusion, we believe that the goal of the insurance industry – to protect policyholders from risks while ensuring financial security – is consistent with the stated goals of the U.S. and EU leadership when it formed the HLWG. Insurance is a fundamental ingredient for creating a robust and seamless economy that can sustain growth and job creation on both sides of the Atlantic. As such we hope that financial services and specifically insurance will be viewed as a key component of the TTIP.