COALITION FOR COMPETITIVE INSURANCE RATES

The Honorable Dave Camp
341 Cannon House Office Building
Washington, DC 20515

The Honorable Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Ron Wyden
221 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Orrin Hatch
104 Hart Senate Office Building
Washington, DC 20510

March 4, 2014

Dear Chairmen Camp and Wyden and Ranking Members Levin and Hatch:

The undersigned members of the Coalition for Competitive Insurance Rates and others are writing to express our concern about a proposal within the Obama Administration's FY 2015 Budget which would deny a tax deduction for certain reinsurance premiums paid to foreign-based affiliates by domestic insurers. The President's proposed tax on foreign affiliate reinsurance would only serve to limit US insurance capacity and drive up the cost of insurance – a major threat to homeowners and small businesses, particularly those in disaster-prone states.

The President's budget proposal closely resembles legislation (H.R. 2054 and S. 991) introduced by Reps. Richard Neal (D-MA) and Bill Pascrell (D-NJ) and Sen. Robert Menendez (D-NJ) that would similarly result in a drastic rise in insurance rates across the country. In an economic impact study of previously introduced legislation by Rep. Neal and Sen. Menendez, the Brattle group, a leading economic consulting firm, found such legislation would have reduced the net supply of reinsurance in the US by 20 percent, forcing American consumers to have paid a total of $11 to $13 billion a year more for their same coverage.

This budget proposal would deny a deduction for certain reinsurance premiums paid by a US insurer to an international affiliate until payment of the associated losses. In effect, this is designed to punish international insurers by imposing additional taxes on their US operations. It essentially imposes an isolationist tariff on international insurance companies conducting business in the US, ultimately denying them a key risk management tool everyone else uses. They would have to either replace affiliate reinsurance with non-affiliate reinsurance or raise more capital. This would force the industry as a whole to reduce the size and scope of their US offerings to fit with their existing subsidiary capital bases. Above all, it would make reinsurance more expensive, leaving the companies and consumers that depend on reinsurance the most without affordable insurance.

A robust insurance market open to as many competitors as possible is essential to consumers. Global reinsurers are financially strong and have substantial capacity to support US insurance companies. For example: losses from Hurricane Sandy currently stand at over $19 billion. International insurance companies are expected to cover nearly 50 percent of the losses caused by Sandy.

Perhaps most concerning is the fact that the Administration's budget proposal violates longstanding US tax policy that calls for the application of an arm's-length standard for related party, cross border dealings. In the insurance business, related party transactions are well documented; they are subject to

mandatory approvals by state insurance regulators. Abundant comparative market regulatory information is available to enforce the so-called transfer pricing rules. The IRS has broad authority to enforce these laws as they relate to reinsurance transactions. The changes proposed are contrary to decades of US tax and trade policy and inconsistent with existing US tax treaty obligations. They could spur retaliatory actions by other countries and possibly damage relationships with important US trading partners.

Additionally, this tariff would violate World Trade Organization (WTO) commitments. One of the basic principles of the WTO is that a country cannot treat a foreign company worse than it treats its own companies; these proposals clearly single out foreign reinsurers for treatment worse than US reinsurers. Specifically, they subject foreign reinsurers – but not US reinsurers – to an arbitrary test to limit the tax deductibility of reinsurance premiums paid to them by their US-based affiliates. Just as foreign countries cannot protect their insurance markets for their domestic insurance companies and treat US companies unfairly, the US cannot protect the US market for domestic insurance companies and treat foreign companies unfairly. The European Union and individual countries like the United Kingdom, Switzerland and Germany have asserted that this tax would violate WTO commitments and tax treaties.

A robust insurance market, open to as many competitors as possible, is essential for businesses and consumers. We ask you to weigh the unintended consequences of a tax on foreign reinsurers, such as passing higher insurance rates down to policyholders and disrupting the global market, and also recognize the outpouring of opposition from consumer advocates, state officials, risk specialists, insurance industry experts, trade negotiators, business organizations and many others. These proposals are isolationist measures aimed at benefiting some competitors in the market at the expense of others. In today's struggling economy, the administration and Congress should avoid imposing new tariffs on US insurance subsidiaries of non-US insurers.

Sincerely,

Florida Consumer Action Network (FCAN)
Consumer Federation of the Southeast
Risk and Insurance Management Society (RIMS)
Organization for International Investment (OFII)
Competitive Enterprise Institute (CEI)
Americans for Tax Reform
Associated Industries of Florida
Florida Chamber of Commerce
Dublin (Ireland) International Insurance and Management Association (DIMA)
Insurance Europe
National Risk Retention Association (NRRA)
National Taxpayers Union
Munich Reinsurance America
ACE Group
Captive Insurance Council of the District of Columbia
Captive Insurance Companies Association (CICA)
Coalition for Competitive Insurance Rates
Florida Insurance Council
R Street Institute
Association of Bermuda Insurers and Reinsurers
Montana Captive Insurance Association
Vermont Captive Insurance Association
XL America
Arch Capital Group Ltd.
Argo Group
Zurich
Allianz of America
International Underwriting Association of London Ltd.
Swiss Re America