



Where is the DFA-Mandated Study on Insurance Regulation?*

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In the Dodd-Frank Act, Congress directed the head of the Federal Insurance Office to conduct a study on how to modernize and improve the system of insurance regulation in the United States. That study is a year late. Congress called for the study to be completed no later than 18 months after the date of enactment of the Act, and the Act was signed by the President on July 21, 2010. That means that the study should have been submitted to Congress in January 2012.

The study is required to be based upon, and guided by, the following considerations: systemic risk regulation; capital regulation; consumer protection; uniformity of state regulation; consolidated regulation; and international coordination. The study also must examine the following factors: costs and benefits of federal regulation; the feasibility of regulating certain lines of insurance at the federal level; the potential for federal regulation to minimize regulatory arbitrage; the impact that developments in the regulation of insurance in foreign countries might have on the federal regulation in the U.S.; the ability of a federal regulator to provide robust consumer protection; and the consequences of subjecting insurance companies to a federal resolution authority.

Perhaps the study has been delayed by the press of other business. The Federal Insurance Office is part of the Treasury Department, and Treasury certainly has been occupied by the major fiscal and financial issues facing the nation. Yet, other provisions in the Dodd-Frank Act are giving rise to questions about the federal regulation of insurance. Most notably, insurers

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that own insured depository institutions are facing the prospect of compliance with capital rules issued by the Federal Reserve Board that differ from the capital rules imposed by the states. Additionally, insurers that may be deemed systemically important face the prospect of comprehensive regulation by the Federal Reserve in conjunction with state regulation. The study could make a contribution to the debate surrounding these current issues, as well as the broader question of the most appropriate relationship between the Federal Government and the states in the regulation of insurance.

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