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Testimony of  
Commissioner Julie Mix McPeak  
Tennessee Department of Commerce and Insurance  
On Behalf of the National Association of Insurance  
Commissioners

Before the  
U.S. Senate Committee on Banking, Housing & Urban Affairs

Regarding:  
Examining the United States-European Union Covered  
Agreement

Thank you Chairman Crapo, Ranking Member Brown, and members of the committee. My name is Julie Mix McPeak. I serve as the commissioner for Commerce and Insurance for the state of Tennessee and current President-Elect of the National Association of Insurance Commissioners (NAIC). I greatly appreciate your invitation to testify before you regarding the covered agreement between the European Union and the United States.

The NAIC is well aware of the disparate regulatory treatment some European Union (EU) jurisdictions are imposing on certain U.S. insurers doing business in the EU and are committed to working with Congress and the administration to address this important issue for our sector. While a covered agreement is one way to do so, we have serious concerns with the text of the current agreement. It is ambiguous in several respects making it difficult to evaluate the benefits to the U.S. insurance sector and more importantly, making it difficult to implement. We therefore urge the administration to clarify or confirm certain provisions prior to moving forward with this agreement and asking the states to take on the significant undertaking related to any implementation.

### **Background**

Under the new Solvency II regime, which went into effect on January 1, 2017, an assessment is required to determine whether another regulatory system is equivalent to elements of their new regime, and then penalizes that non-equivalent count insurers with additional regulatory requirements. This has the effect of either imposing the EU approach on the rest of the world, or placing companies from those jurisdictions at a competitive disadvantage



## **An Ambiguous Agreement is not an Agreement**

Based on a plain reading of the text, we believe the previous Treasury Department and USTR failed to meet several of their objectives. While we recognize the agreement appears to provide some benefit to certain U.S. insurers operating in the EU by eliminating EU local presence requirements over time, this agreement does not require the EU to grant the U.S. permanent equivalence (or comparable treatment), and in fact, the word equivalence is nowhere to be found in the document. This means, even post covered agreement, insurers based in Bermuda or Switzerland, for example, (which have received equivalence) receive greater benefits from the EU than U.S. insurers. Yet, under this agreement, the United States, one of the most sophisticated and well-regulated insurance marketplaces on the globe, continues to be treated by Europe with unjustifiable



certified reinsurers will likely have reduced collateral requirements, of the 215 EU

agree that we have the deal we've been told we have. We believe that confirmation may be achieved without renegotiation and without undue delay. Critically, however, we believe that these ambiguities must be resolved at the outset of the agreement rather than at some later date through the opaque process afforded by the Joint Committee. It is entirely unacceptable to ask 50 state Governors, legislatures, and regulators to revise some of the fundamental elements

