FLOOD INSURANCE

The National Flood Insurance Program (NFIP) is the main source for flood insurance in the U.S. The NFIP makes federally-backed insurance policies available in over 20,000 communities that enforce floodplain management standards. The NFIP provides flood insurance to approximately five million policyholders across every state and territory and in 2018 the NFIP paid claims in 49 states. However, despite the existence of the program, many properties impacted by flooding are not covered by flood insurance. More property owners should obtain flood insurance because it enables disaster survivors to recover more quickly and fully after a flood and is less costly to taxpayers than disaster assistance.

The Big "I" urges Congress to support a long-term extension of the NFIP before it expires on May 31, 2019.

The NFIP is reauthorized by Congress periodically and is currently set to expire on May 31, 2019. Reauthorization is necessary to avoid coverage lapses (especially during hurricane season) and significant disruption for consumers, small businesses and real estate markets. The program has seen nearly a dozen short-term extensions as well as a few brief lapses since September 2017. The instability created by continual short-term extensions not only threatens to cause concrete economic damage, but it also harms consumers, undermines public confidence in the NFIP, and distracts from the ultimate goal of reforming the NFIP.

The Big "I" asks Congress to support a modernized NFIP that would increase take-up rates for flood insurance.

The NFIP was created in 1968 and it is imperative that steps are taken to modernize the program. FEMA, which oversees NFIP operations, is currently working on an initiative—dubbed Risk Rating 2.0—to modernize the insurance products the NFIP offers to better reflect new technologies and to make the rates the program charges more fair and transparent. The Big "I" is encouraged by this effort and hopes that Congress and FEMA can work constructively on Risk Rating 2.0 and other innovative approaches to modernizing the program. Modernizing and simplifying the NFIP so that rates better reflect risks will encourage more consumers to purchase flood insurance.

The Big "I" also urges Congress to help more Americans obtain flood insurance coverage, whether through the NFIP or the private market. On July 1, 2019 a new banking regulation will go into effect that is intended to streamline lender acceptance of private flood insurance in satisfaction of mandatory purchase requirements. The Big "I" hopes that this regulation will provide clarity for the private flood insurance market, but believes additional legislation is still necessary. For example, the Big "I" supports clarifying that private flood insurance can satisfy NFIP continuous coverage requirements, which ensures that if consumers leave the NFIP for the private market and conditions change such that those consumers must return to the NFIP, they can do so without penalty. As a result, the association asks Congress to support H.R. 1666 by Reps. Kathy Castor (D-FL) and Blaine Luetkemeyer (R-MO). The Big "I" further supports allowing refunds for unearned premiums for the cancelation of NFIP policies if a consumer elects to purchase a private flood insurance policy and allowing private flood insurance to satisfy mandatory purchase requirements on FHA-insured mortgages. These policies will help to provide consumers with more choices.

The Big "I" urges Congress to support private sector delivery of NFIP policies and oppose efforts to limit the Write-Your-Own (WYO) Program in any manner that could negatively impact NFIP take-up rates.

The overwhelming majority of NFIP policies are written through the WYO program—a public-private partnership that utilizes insurers and agents to sell and service NFIP policies. Insurance agents and brokers are uniquely knowledgeable about the NFIP and are the main point of contact for consumers when purchasing flood insurance. The Big "I" opposes any policies that would harm the WYO Program (including compensation reductions), make it more complex, or limit the program negatively impacting NFIP take-up rates.

TERRORISM INSURANCE

The Terrorism Risk Insurance Act (TRIA) was enacted on Nov. 26, 2002 in response to the Sept. 11, 2001 attacks and the ensuing difficulty of the commercial property-casualty insurance markets to underwrite terrorism risk. The attacks caused prices for terrorism insurance and reinsurance to rise dramatically, while coverage disappeared altogether in some areas. This crisis threatened the country's economic security, as the effects were not only felt in the insurance markets but directly impacted real estate development and finance.

The Big "I" urges Congress to pass a long-term extension of the Terrorism Risk Insurance Program (TRIP) as soon as possible.

Since its initial enactment, TRIP has undergone three additional reauthorizations: 2005, 2007 and 2015, with many reforms to protect taxpayers and increase private sector involvement. There is still a very real need for the program, as the threat of terrorism is still ever-present, and the unique nature of this risk has not changed. The current authorization of the program is due to expire on Dec. 31, 2020.

TRIP essentially operates as a public-private partnership in the form of a federal reinsurance backstop. In exchange for this backstop, insurers must make terrorism coverage available to commercial policyholders. If the worst should happen and a need for the program were to arise, TRIP has numerous cost-sharing provisions designed to limit the exposure of the federal government, protect taxpayers and maximize private sector involvement.

The most recent reauthorization of TRIP in 2015 brought significant reforms and left private insurers with more "skin in the game." For instance, in the original TRIA legislation, the federal government was required to share in the industry's loss only if the losses exceeded $5 million. In 2015, when the program was last reauthorized, that trigger level had reached $100 million and was changed to increase by $20 million a year until it reaches $200 million in 2020. In addition, a per company deductible requires an insurer to pay out a portion of its claims that are directly proportional to an insurer's size (20% of commercial p-c premium) before accessing federal assistance. Furthermore, the amount paid to insurers by the federal government must be recouped at 140% (up from 133%) if the aggregate industry losses are below a certain amount ($27.5 billion in 2015 going up $2 billion a year to $37.5 billion in 2020). The Big "I" believes the significant reforms from the 2015 reauthorization strike the right balance of ensuring that the program remains stable and strong while protecting the taxpayer, and that additional significant reforms are unnecessary and could significantly restrict the efficacy of the program. In fact, a 2017 study from Marsh notes that terrorism capacity is abundant with a take-up rate hovering above 60%, and barring unforeseen changes, is likely to remain stable.

Despite some strides by private insurers to model terrorism risk since 9/11, fundamental problems remain with insuring against this unique peril. Private insurers do not have access to the data and information to perform proper underwriting, as much of the information that does exist is available only to governmental agencies involved in thwarting terrorist attacks. This information is, of course, classified for national security reasons.

In addition, unlike other risks such as natural disasters, previous events do not provide optimal data points for the underwriting process as terrorists seek to make their attacks as unpredictable as possible. As with 9/11, terrorist attacks can occur in clusters in order to inflict maximum economic and psychological damage, further complicating underwriting.

CROP INSURANCE

The Federal Crop Insurance Program (FCIP) is a public-private partnership that supports the purchase of crop insurance by farmers to protect against losses due to natural disasters and single year commodity price declines. Independent insurance agents and brokers play a critical role in the sale and servicing of crop insurance with over 12,000 insurance agents participating in the program. According to the U.S. Department of Agriculture, which administers the FCIP, well over a million federal crop insurance policies cover more than 120 different crops grown on roughly 300 million acres with an insured value in excess of $120 billion.

The Big "I" thanks Congress for passing the 2018 Farm Bill and protecting the FCIP.

The Big "I" thanks Congress for passing a Farm Bill supportive of crop insurance. Crop insurance is essential for the security of the rural economy and America's food supply. Crop insurance enables farmers to rebound quickly after a disaster and is the only safety net available to all types and sizes of farmers in all regions. Unlike other farm programs or ad hoc disaster assistance that is 100% paid by the taxpayer, crop insurance losses are shared by farmers, private sector companies and the government. Furthermore, without crop insurance, most farmers cannot qualify for the operating loans needed to plant crops. It is critical that Congress continues to support the FCIP.

The Big "I" urges Congress to oppose any legislation that would increase the cost of crop insurance for farmers or reduce the number of farmers eligible for crop insurance.

To promote increased crop insurance coverage, Congress decided that farmers should pay discounted rates for crop insurance. Even with the discount, farmers still pay between $3.5 billion and $4 billion annually for crop insurance. While farmers have utilized crop insurance more in recent years, less than 20% of crop insurance policies pay on a claim in an average year. Similar to other types of insurance, it is not unusual for farmers to pay into the crop insurance program for years without receiving an indemnity payment. The FCIP is actuarially sound by statute and benefits from a large and diverse risk pool. Some have proposed increasing the cost of insurance for farmers or decreasing the types of farmers eligible for the program. Removing some farmers from the crop insurance risk pool, via means testing or otherwise, will negatively impact the rates for farmers still participating in the FCIP.

The Big "I" asks Congress to oppose any legislation that would weaken the efficient and effective private sector delivery of crop insurance.

The FCIP is federally regulated and delivered by the private sector. Premium rates are set by the government and farmers cannot be refused a policy. A national public opinion poll conducted in May 2016 found that voters agreed by a 20-point margin that farmers and taxpayers are better served by private companies delivering crop insurance instead of the government. Yet, the private sector delivery of crop insurance has endured more than $12 billion in cuts since the 2008 Farm Bill and some have proposed further cuts to the FCIP public-private partnership. In addition to limiting farmer access to crop insurance, the Big "I" opposes any legislative or regulatory efforts that would harm the private-sector delivery of crop insurance by unreasonably capping the payments that crop insurers receive for participating in the FCIP.

HEALTH CARE

Employer-sponsored insurance is the most common way Americans receive health insurance. It is imperative that Congress protect the more than 180 million Americans who receive insurance through an employer. Health care policies such as the "Cadillac tax", Medicare for All, and single-payer would do irreparable damage to the employer-sponsored market and significantly change the way most Americans receive their health insurance. In addition, the Big "I" continues to believe that agents and brokers are best suited to help consumers through the important services they provide such as tailoring health plans to fit the needs of individuals and businesses and guidance in claims processing.

The Big "I" urges Congress to support the employer-sponsored health insurance system and S. 684/H.R. 748 which would repeal the "Cadillac Tax."

The Affordable Care Act (ACA) included a 40% excise tax, the so-called "Cadillac tax", on employer-sponsored health insurance plans exceeding certain costs. While the ACA's "Cadillac tax" may imply the tax applies to a few individuals with luxury health coverage, the truth is it has much broader reach. In fact, according to a Towers Watson survey, 82% of employers expected their plans would be affected by the tax within the first five years of implementation. The 40% tax applies not only to the employer's share of the insurance premium but also to the employee's share. Furthermore, the tax applies to several benefits that help control costs including on-site medical clinics, certain wellness and employee assistance plans, health savings account contributions, health reimbursement arrangements, flexible spending accounts, and other pre-tax health benefits. Congress recently delayed implementation of the tax a second time until 2022. The delay is a good step, but the Big "I" continues to work with a diverse group of public and private sector employers, trade associations, unions and other stakeholders as part of "The Alliance to Fight the 40" to seek full repeal.

The Big "I" believes the ultimate impact of this tax will be a reduction in benefits and/or higher deductibles for employees across the country as employers are forced to find ways to avoid being hit with the tax. As a result, the Big "I" supports S. 684/H.R. 748, the "Middle Class Health Benefits Tax Repeal Act," by Sens. Mike Rounds (R-SD) and Martin Heinrich (D-NM), and Reps. Joe Courtney (D-CT) and Mike Kelly (R-PA) to fully repeal the "Cadillac tax."

The Big "I" asks Congress to oppose H.R. 1386, the ENROLL Act, and any other efforts to restore funding to navigators.

The ACA originally created the navigator program to help consumers enroll in federally-facilitated plans. The Trump Administration has significantly cut funding for navigators over the past two years. In fact, the Administration noted that navigators enrolled fewer than 1% of Americans who signed up for ACA coverage in 2018. H.R. 1386 by Rep. Kathy Castor (D-FL) would restore $100 million in funding for navigators. The Big "I" has continuously advocated against funding navigators and believes agents and brokers are best suited to help consumers meet their health care needs.

INSURANCE REGULATORY REFORM

Under the McCarran-Ferguson Act states are the primary regulators of the business of insurance, including independent insurance agents and brokers. State-based insurance regulation offers considerable benefits, including in the vital areas of insurer solvency and consumer protection. For decades, the Big "I" has been a leading supporter of state insurance regulation and the association strongly opposes any form of federal regulation of insurance. The Big "I" believes that the attributes of the state-based system outweigh any perceived inefficiencies, but that the system must be modernized as the marketplace continues to evolve.

The Big "I" urges Congress to support significantly restricting or eliminating the Federal Insurance Office (FIO).

The FIO was created by the Dodd-Frank Act to be an information-gathering body within the Treasury Department, support international insurance agreement negotiations, and to conduct studies and reports on the insurance market. Over the years, the FIO has proven to have questionable value for insurance markets and consumers. As such, the Big "I" supports H.R. 1862 by Rep. Alex Mooney (R-WV) which would eliminate the FIO.

The Big "I" asks Congress to support a modernized system of state-based insurance regulation.

The Big "I" is concerned that some federal and international efforts could lead to an erosion of state-based insurance regulation and consumer protections. The association supports stronger procedural guidelines for federal officials in international insurance negotiations and increasing transparency and oversight in these negotiations. The Big "I" also opposes federal interference with the ability of state regulators to manage their respective insurance markets, as each state insurance market faces unique local risks. H.R. 1756, legislation introduced by Rep. Rashida Tlaib (D-MI), would prohibit the use of consumer credit reports in the underwriting process for auto insurance. The Big "I" opposes efforts like this because they inappropriately preempt state insurance laws.

The Big "I" urges Congress to oppose any effort to expand Risk Retention Groups (RRGs).

RRGs, which allow similarly-situated groups to pool risks, were created by the Liability Risk Retention Act (LRRA) in the 1980s in response to a specific market crisis. While Congress authorized RRGs for the narrow purpose of offering commercial liability insurance, some are calling on Congress to allow certain RRGs to also offer commercial property insurance. The Big "I" strongly opposes such an expansion because it would needlessly preempt state insurance law, undermine state insurance markets, and put consumers at risk. There is no market need for such an expansion because commercial property products are available via traditional insurance markets. Also, RRGs are not subject to the same type of regulation as insurance companies and preempting state consumer protection and solvency laws to allow RRGs to insure property risks would result in riskier and less comprehensive insurance products for consumers.

The Big "I" encourages Congress to support the long-overdue appointment of a Board of Directors for NARAB.

NARAB was authorized by Congress in 2015 but is not yet operational. Once operational, NARAB will be a portal that enables insurance agents and agencies wishing to join NARAB to satisfy non-resident licensing requirements across multiple states, while still maintaining state consumer protection requirements and regulatory oversight. NARAB will be a non-governmental entity overseen by a Board of Directors that is appointed by the President and confirmed by the Senate. After a lengthy process in 2016, the White House submitted some candidates for the Board. However, the Senate failed to confirm the nominees before the election and the resulting change in administrations has slowed the process. NARAB nominees must be resubmitted to the Senate Banking Committee, but the Trump Administration has yet to submit any nominees as it works to fill higher level positions.

TAX

A provision of the 2017 tax reform law added a section to the individual tax code (26 U.S.C. §199A) that created a new 20% deduction on "qualified business income" for some owners and shareholders of pass-through businesses, such as subchapter S corporations, partnerships and sole proprietorships. On Jan. 18, 2019, the IRS issued final regulations implementing Section 199A of the tax code ensuring that a greater number of owners and shareholders of insurance agencies and brokerages organized as pass-through entities are eligible for the new deduction. However, the deduction is only available through the end of 2025. For the deduction to be available in 2026, Congress will have to act to extend Section 199A of the tax code for some additional amount of time or make the deduction permanent.

The Big "I" asks Congress to support S. 1149/H.R. 216, the Main Street Tax Certainty Act.

Earlier this year, Sen. Steve Daines (R-MT) introduced S. 1149 and Reps. Jason Smith (R-MO) and Henry Cuellar (D-TX) introduced H.R. 216, the "Main Street Tax Certainty Act." This legislation would make permanent the 20% deduction on "qualified business income" for some owners and shareholders of pass through businesses.

Pass-through businesses of all sizes employ the majority of private sector workers—66 million workers or 55% of the total private sector workforce according to a 2015 report from the Tax Foundation. Approximately two-thirds of the insurance agencies and brokerages the Big "I" represents are organized as pass-through entities and are currently seeing significant benefits from the new deduction. Furthermore, agencies and brokerages employ millions of people across the U.S. and occupy numerous retail locations in every state. The new deduction has allowed insurance agency and brokerage owners to reinvest and grow their businesses, hire new employees, and better serve their customers.

Unlike the new 20% deduction for small businesses, the C-Corporation rate reduction in the 2017 tax reform law was made permanent. The deduction that S.1149/H.R. 216 seek to protect is crucial to enable these pass-through insurance agencies and brokerages across the country to compete with their C-Corporation counterparts that now have the benefit of a new permanent 21% tax rate. In addition, the small business tax deduction allows insurance agencies and brokerages to compete with larger employers of all industries for the best talent. To avoid an unlevel playing field in the future, this inequity should be rectified by making the 20% deduction for small businesses permanent.

CYBERSECURITY

Cybersecurity is one of the most critical issues facing the country today. In an interconnected world, issues related to the protection of personal information, data breach, data security, and insurance to cover cyber-related incidents are becoming more and more significant. Cyber issues are important to Big "I" members both as businesses that sell cyber insurance products and as businesses that could be targets of a cyberattack.

The Big "I" urges Congress to continue exploring legislative options to better protect Americans from cyberattacks, while giving cyber insurance products time to develop with market demands.

Cyber insurance is not a "silver bullet" solution for cybersecurity but is one strategy to enhance a business' overall risk mitigation plan. Insurers small and large are currently working with thousands of independent insurance agencies across the country to better understand consumer needs and educate the public on what insurance options are available for cyber-related risks. Having cyber insurance can also help foster data security best practices. Moving forward, the cyber insurance market must be allowed to organically grow capacity to meet consumer and market demands without intrusive government intervention, while continuing rigorous underwriting standards.

The Big "I" encourages Congress to recognize the important role of state insurance regulation in any potential federal data breach or data security legislation.

Having a uniform, reasonable, and nationwide data breach standard is the most desirable outcome of any legislative process. The Big "I" realizes that federal legislation that preempts state law may be warranted in the absence of consistent and uniform state laws. However, all Big "I" members are already subject to a variety of federal data security statutory requirements (e.g. the Gramm-Leach-Bliley Act and the Health Insurance Portability and Accountability Act), and nearly every state has enacted some form of data breach legislation. It is important that any federal proposal provide a uniform data breach standard that does not result in conflicting or varying standards at the state and federal level, or on a state-by-state basis.

It is also important that any potential federal standards recognize the role that state insurance regulation plays in consumer protection. If a nationwide uniform data breach and/or data security standard is created, it should be enforced by the functional regulators for the covered entities/industries. In other words, any standards placed on the business of insurance should be overseen by the appropriate state insurance regulator.

The Big "I" asks Congress to ensure that any potential federal data breach or data security legislation is not overly burdensome on small businesses.

Many Big "I" members are small businesses and it is very important that any potential data breach legislation be scalable and reasonable for all insurance agencies no matter their size. Small and medium size businesses face different risks than large businesses and any requirements related to data security must not inadvertently disadvantage small business or stifle innovation.