American Academy of Actuaries
Essential Elements
Making complex public policy issues clear
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New Risk Regulators and Regulations

The 2008–09 financial crisis shook confidence in global financial institutions. Policymakers in the United States and abroad responded with steps aimed at reducing systemic risks to the domestic and worldwide financial systems. In the United States, new federal regulatory and oversight bodies were created to foster better coordination and consistency among financial regulators and to try to bridge potential supervisory gaps.

Additionally, the National Association of Insurance Commissioners (NAIC) launched its Solvency Modernization Initiative to update U.S. insurance regulations to improve the solvency regulatory framework for insurers in the United States. This initiative has included work related to enhancing capital requirements, governance and risk management, group supervision, reinsurance, and other key issues.

New U.S. Regulatory Bodies and Roles

Financial Stability Oversight Council

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) created the Financial Stability Oversight Council (FSOC), which is responsible for identifying risks and responding to threats to the nation's financial system. FSOC is housed within the U.S. Treasury Department, and its voting members comprise federal banking, securities, and financial regulators, and an independent insurance expert. Nonvoting members include the director of the Federal Insurance Office (FIO), the director of the Office of Financial Research, and representatives of the nation's state insurance, banking, and securities regulators.

The council may designate U.S. nonbank financial companies as systemically important financial institutions (SIFIs)—entities whose material financial distress, or size, concentration, interconnectedness, or mix of its activities could pose a serious risk to the economy—that should be subject to enhanced oversight.

FSOC's scope includes:

- Facilitating regulatory coordination to reduce gaps in the regulatory structure and secure a more stable financial system.
- Promoting information collection and sharing among agencies and gathering additional information from individual companies to assist in identifying risks.
- Designating nonbank financial companies for consolidated supervision.
- Recommending stricter standards for the largest, most interconnected firms, especially in cases where activities threaten widespread financial stability.
- Breaking up companies that present a "grave threat" to the financial security of the United States.

Federal Insurance Office

Dodd-Frank also created FIO within the Treasury Department to monitor the insurance sector and determine whether underserved communities and consumers have adequate access to affordable insurance products. Although not given domestic regulatory authority under Dodd-Frank, the office identifies any industry activity that could lead to a crisis in the financial system as a whole. Its authority extends to all lines of insurance except health, long-term care, and crop insurance.

FIO also assists with the administration of the Terrorism Risk Insurance Program and is one of the U.S. representatives on international insurance matters, including at the International Association of Insurance Supervisors (IAIS).[1] Additionally, FIO provides recommendations to FSOC on matters such as insurer SIFI designation.

Federal Reserve

The Federal Reserve (Fed) received added responsibility as a supervisor for certain insurance holding companies designated by FSOC as a result of Dodd-Frank's enactment. Additionally, the Fed assumed oversight of consolidated insurance holding companies that own an insured bank or thrift following the elimination of the Office of Thrift Supervision by Dodd-Frank.

1 See below under "International Regulatory Bodies" for more information

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International Regulatory Bodies

Financial Stability Board

The Group of 20[2] established the Financial Stability Board (FSB) in 2009 and gave it a broad mandate to promote global financial stability. Although not legally binding on any nation, FSB's policies are developed by policymakers from the world's largest economies, and the organization works to set standards that member countries may adopt for their jurisdictions. The Fed, Securities and Exchange Commission, and Treasury Department are the U.S. representatives to the FSB.

MAKEUP OF FINANCIAL STABILITY OVERSIGHT COUNCIL

Voting Members

- Secretary of the Treasury
- Chairman of the Board of Governors of the Federal Reserve System
- Comptroller of the Currency
- Director of the Bureau of Consumer Financial Protection
- Chairman of the Securities and Exchange Commission
- Chairperson of the Federal Deposit Insurance Corporation
- Chairperson of the Commodity Futures Trading Commission
- Director of the Federal Housing Finance Agency
- Chairman of the National Credit Union Administration
- Independent member with insurance expertise

Nonvoting Members

- Director of the Office of Financial Research
- Director of the Federal Insurance Office
- State insurance commissioner designated by the NAIC
- State banking supervisor designated by the Conference of State Bank Supervisors
- State securities commissioner designated by the North American Securities Administrators Association

International Association of Insurance Supervisors

Established in 1994, the International Association of Insurance Supervisors (IAIS) is composed of authorities from 140 countries and is an international standard-setting body for insurance supervisors. The IAIS implements principles and standards to facilitate the supervision of the insurance sector in the respective jurisdictions of its members. Its mission includes promoting policyholder protection and global financial stability by establishing a process to assess systemic risks of insurers and coordinating the efforts of national insurance supervisors and other global financial regulators.

The IAIS developed a basic capital requirement and higher loss absorbency standard for "global systemically important insurers" and is creating an insurance capital standard designed to apply to all "internationally active insurance groups." The United States is represented at the IAIS by FIO, the NAIC, and the Fed. (For more information on the IAIS, see Academy's *Insurance Capital Standards*.)

New State Regulations

Solvency Modernization Initiative

The NAIC began its Solvency Modernization Initiative in 2008 in an effort to mitigate some risks to insurers through: added regulations, developing financial tools, conducting oversight to prevent failures, and providing a financial-protection backstop in case of an insurer liquidation.

In 2011, the NAIC adopted the Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act, a proposed state regulation that requires insurers and insurer groups to assess their own current and future risks to provide regulators a better understanding of how well these companies can withstand financial stress. As of August 2016, 39 states have adopted ORSA legislation, which places requirements on large and medium-sized insurers to analyze their own underwriting, market, operational, liquidity, and other material risks that could affect their capability to meet policyholder obligations.

The NAIC also has adopted or is currently working on several changes to requirements for risk-based capital (RBC)—minimum amounts of capital that insurers must hold to protect consumers, insurers, and the overall economy. A few examples of changes and enhancements include the introduction of principle-based reserving for life insurance, catastrophe risk factors in the RBC formula for property/casualty insurance, and the NAIC's ongoing work to update the investment risk factors for all RBC formulas.

Additionally, the NAIC has adopted or is continuing work on provisions to improve governance and risk management, insurance group supervision, reinsurance, and statutory accounting and financial reporting. Examples include the introduction of Actuarial Guideline XLVIII, which applies to life captives and the ongoing work to consider a group capital calculation.

2 A forum of 19 countries plus the European Union representing both developed and emerging economies whose size or strategic importance gives them a particularly crucial role in the global economy. Its role is to coordinate policies at the international level to promote global financial stability.