

December 22, 2011

House Subcommittee Approves Bill to Prevent the Federal Insurance Office and Office of Financial Research from Collecting Data Directly from Insurance Companies

On December 5, the Insurance, Housing and Community Opportunity Subcommittee of the House Committee on Financial Services approved H.R. 3559. Click [here](#) for H.R. 3559. H.R. 3559 addresses a sensitive issue regarding the proposed power of the Federal Insurance Office (FIO) and the Office of Financial Research (OFR) – maintaining confidentiality and privilege on information shared by insurers to governmental bodies not currently within the customary scope of disclosure by insurers. These federal agencies would not have the authority, in the first instance, to subpoena information directly from insurance companies. Instead, the FIO and OFR would need to obtain information on insurance companies through a procedure specified in the bill, which is described below.

According to the bill, the FIO and OFR would need to reach out to state insurance regulators, any applicable federal regulator and any public sources to determine whether the information is available from such sources. If the information is not available, then the FIO or OFR may collect the information from the insurance company.

The bill provides that privilege is maintained on the information disclosed to the FIO and OFR. The information also would remain subject to any applicable confidentiality agreements.

The FIO or OFR may share the information it obtains with state regulators, pursuant to an information-sharing agreement. The agreement would need to comply with any applicable federal law. Also, it would not constitute a waiver of privilege.

This bill would also apply to the U.S. Securities and Exchange Commission, the Commodity Futures Trading Commission and certain other federal agencies.

The bill will now go to the full committee for consideration. If it passes the full committee, the bill will go to the full House for a vote. If the bill passes the full House, it will then go to the Senate for a similar committee process. The Senate could change the House bill or leave it as passed. If there are disagreements between the House and Senate versions, the bill would go to a conference committee for selected members from both the House and Senate to work out a compromise. The bill then would go to the President for his approval or veto.

We would be pleased to discuss our concerns with any interested parties.



If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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