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Statement of

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On Behalf Of

The American Council of Life Insurers

Before The

Committee on Finance

United States Senate

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Mr. Chairman, Ranking Member Grassley and members of the Committee, my name is Patrick Baird and I am Chairman of the Board of AEGON USA and Immediate Past Chairman of the American Council of Life Insurers (ACLI). I am here today on behalf of ACLI, the trade association for U.S. life insurance companies. The ACLI represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent over 90% of the assets and premiums of the U.S life insurance and annuity industry.

I appreciate the opportunity to appear before you today to share our views about the Administration's proposal entitled, Financial Crisis Responsibility Fee. The Administration's description of the proposal is brief, but as I understand it, the proposed tax would apply to banks, thrifts, bank and thrift holding companies, brokers and securities dealers, as well as US companies owning or controlling these types of entities on January 14, 2010. It is not applicable to those entities with consolidated assets of less than $50 billion. The fee or tax is applied to liabilities with an exclusion for certain liabilities at the rate of 15 basis points.

The proposal cites two reasons for the tax: First, to repay the costs incurred by the Federal government to inject funds into the financial system, guarantee certain types of securities and purchase securities from weakened financial institutions and second, to deter excess leverage for the largest financial firms, many of whom were primarily responsible for the economic meltdown.

Given the stated reasons for the tax by the Administration, it is unclear why the life insurance industry has been included. Generally the answer we get when we ask the question why insurers are included in this tax is that AIG played a very significant role in the economic downturn and financial crisis. We don’t disagree with that assessment. However, it is important to emphasize that while AIG is an insurance company, AIG is/was actually a multi-faceted entity with many business units in addition to its insurance business, and its life insurance and property casualty business was and remains highly regulated by the states. Therefore, AIG should not be used as the benchmark for the life insurance industry.

Life insurers’ primary purpose is to accept and spread risk from policyholders and to fulfill promises made to policyholders. To meet these obligations, we maintain reserves and surpluses through conservative and careful investments in full compliance with existing state laws regulating the industry. This is why during the near meltdown of the economy, while our industry was negatively impacted like every other in the U.S., life insurers paid their claims and obligations, and remained stable despite the investment behavior of others within the financial services community.

As formulated, the tax would apply to those life insurers with assets over $50 billion who happen to own banks, thrifts or broker-dealers, whether they received Federal assistance or not. Regardless of the size of their bank, thrift or broker-dealer, the overall assets of a company would be taken into account on a global basis when determining the amount of the tax. Because their reserves and statutory surpluses can be very large, a significant number of life insurers -- not only publicly traded companies, but mutuals, fraternals, and reciprocals -- would be swept into the tax.

As previously stated, life insurers invest carefully in order to have the funds in the future to pay policyholder obligations. While some insurers may own a bank, thrift or broker-dealer, these are generally small parts of their business operations. For example, life insurers engaged in the variable annuity or variable life insurance business often own a broker-dealer to facilitate the distribution of these contracts, and some life insurers own thrifts to carry out trust services. We believe these operations are ancillary to the nature of our business, especially when compared to our primary purpose of insurance, and therefore are not sufficient basis to lump us together with companies whose primary purpose is banking. This tax would penalize those companies who have chosen a certain business model in which to best serve their policyholders.

Life insurers provide a service that sets us apart from all other sectors of the financial services industry. Life insurers make long-term commitments to their customers to provide life insurance, disability insurance, long-term care and annuities. Each of these commitments is substantially different than the obligations undertaken by banks or other financial institutions. To ensure that insurers have the ability to pay those claims decades out, life insurers are subject to a system of state regulation that focuses on protecting consumers through asset-liability matching, cash flow testing, solvency regulation and state guarantee funds.

The imposition of the tax will create a competitive imbalance within the industry by imposing a tax on those insurers who have a bank, thrift or broker-dealer. These companies will be competing with companies who are not subject to the tax but sell the same products. The Joint Committee on Taxation background document on the tax recognizes these differences between the regulation of insurers and other financial institutions and notes, among others things, that those life insurers who are assessed the tax will be at a competitive disadvantage in their sector of financial services as a result. We do not believe shifting the competitive field within an industry, in a manner that the Joint Committee itself indicated seemed ambiguous and arbitrary, would be the intent of Congress.

When announcing the tax proposal in January, the Administration stated that it sought to impose the tax to discourage risky financial behavior and speculative leveraging activities. Since insurers are prohibited by state law from engaging in excess or risky leveraging, we do not believe this is justification to impose a tax on our industry. State investment laws are very clear and uniform throughout the country. They impose strict limitations on the type of investments an insurer can make.

It could be argued that life insurers benefitted generally and indirectly from the government's policies that assisted the economy. That argument, though, can be said about every company and business in the country. We all benefitted from having a stabilized financial system. We do not believe that insurers should be identified as an industry that inordinately benefitted and therefore needs to be taxed to recoup government funds. Like most of main street America, our industry was a victim of the recession, not a perpetrator.

The regulatory accounting for life insurers is different than accounting for banks. The Joint Committee on Tax background document also noted that applying concepts designed for depository institutions to non-depository institutions would be complicated and bring significant uncertainty. It stated, "For example, nondepository institutions do not have a concept of insured deposits or Tier 1 capital. Specifying equivalent concepts for other financial institutions may be complicated and adversely affect the ease and cost of administration."

The critical actions taken by the Administration and Congress in 2008 and 2009 responded to one of the most precarious economic situations that ever faced the country. The crisis called for precipitous actions. We understand that the extraordinary actions brought stability and improvement to all aspects of the economy including the various segments of financial services; however, it is important to note that these benefits were not evenly distributed within the financial services industries.

In raising these fundamental concerns, we acknowledge that, in addition to AIG, a few of our members did receive financial support from the federal government during the crisis. We fully understand the desire of the federal government to recoup taxpayer funds in the TARP program as provided in the Emergency Economic Stabilization Act (EESA) which calls for recoupment by 2013. In fact, these companies have either repaid or will have repaid well in advance of the 2013 statutory date.

As the Senate reviews this proposal, we urge you to carefully consider whether it is appropriate to impose this new tax on our industry.

Thank you.