

The Era of Increased Federal Regulation: A "New Deal" for the Insurance Industry?

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The recent near collapse of the western financial system is ushering in a new era of federal regulation not seen since the New Deal. President Obama stated in his January 2010 State of the Union address that "[i]n this new decade, it's time the American people get a government that matches their decency; that embodies their strength," and that while "the true engine of job creation in this country will always be America's businesses . . . government can create the conditions necessary for businesses to expand and hire more workers."¹ A few days earlier, on January 21, President Obama also proposed sweeping banking industry reform that would ban certain risky trading activities by banks, referred to colloquially as the "Volcker Rule."² On March 15, the Chairman of the Senate Banking Committee, Christopher Dodd, unveiled a 1,300-page financial system overhaul bill that, if passed, "would amount to the most sweeping change in financial rules since the Depression."³ This new era of regulation may even reach the insurance industry, which historically has been the near exclusive domain of the states.

The historically limited federal role in insurance regulation goes back more than a century to the U.S. Supreme Court's decision in *Paul v. Virginia*,⁴ where the Court held that insurance was not interstate commerce, and that the states, rather than the federal government, had the exclusive right to regulate the insurance industry.⁵ In the 1930s, in response to the Great Depression, Congress and President Franklin D. Roosevelt enacted a series of economic programs that expanded the role of the federal government. In 1944, in a case concerning insurance companies' alleged violations of the Sherman Antitrust Act, the Supreme Court reversed its stance in *Paul* and held that the insurance industry could be regulated by Congress under the Commerce Clause.⁶ In 1945, Congress responded to the Court's ruling by passing the McCarran-Ferguson Act, which provides that state law preempts federal regulation of insurance companies when federal law that does not specifically regulate the "business of insurance" directly conflicts with state law.⁷ Since the enactment of McCarran-Ferguson, regulation of the insurance industry has remained largely a state issue, with a concomitant patchwork of regulatory schemes. The status quo may be changing.

Part I of this article explores pending federal legislative efforts to regulate activities of insurers. Part II of this article describes already existing federal legislation that directly or indirectly affects the business of insurance.

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I. Recent Efforts to Regulate the Insurance Industry

Members of Congress and the Obama administration have proposed a variety of regulations to increase the federal government's oversight of the insurance industry.

A. Office of National Insurance Legislation

On April 2, 2009, Representatives Melissa Bean (D-IL) and Ed Royce (R-CA) introduced the National Insurance Consumer Protection Act (H.R. 1880), which would create an Office of National Insurance (ONI) within the U.S. Department of the Treasury to oversee the national insurance regulatory scheme.⁸ Insurance companies, agencies and producers would have the option to apply for a federal charter from the ONI or to remain under the current state regulatory regime.⁹ H.R. 1880 is currently in the Committee on Financial Services, Committee on the Judiciary and Committee on Energy and Commerce.

On March 15, 2010, Senator Chris Dodd (D-CT) unveiled the "Restoring American Financial Stability Act of 2010" bill.¹⁰ Title V of the bill creates the "Office of National Insurance Act of 2010" and the "Nonadmitted and Reinsurance Reform Act of 2010." The "Office of National Insurance Act of 2010" establishes an Office of National Insurance to be housed within the Department of the Treasury.¹¹ The bill would grant the Office of National Insurance the authority to (1) monitor all aspects of the insurance industry, (2) recommend to the Financial Stability Oversight Council that an insurer be subject to regulations as a nonbank financial company supervised by the Board of Governors, (3) assist in the administering of the Terrorism Insurance Program, (4) coordinate efforts and develop federal policy on prudential aspects of international insurance matters, (5) determine if state insurance measures are preempted by international insurance agreement on prudential measures, and (6) perform other duties assigned by the Secretary of the Treasury.¹² The Office of National Insurance would, however, not have authority to oversee health insurance.¹³ The "Nonadmitted and Reinsurance Reform Act of 2010" would require (1) new reporting, payment, and allocation of premium taxes, (2) new regulations of nonadmitted insurance by an insured's home state, (3) the states to require insurance companies to participate in a national insurance producer database, (4) uniform standards for surplus lines of eligibility, and (5) streamlined insurance applications for commercial purchasers.¹⁴ The Act also creates regulation of credit for reinsurance and reinsurance agreements, and regulations regarding reinsurer solvency.¹⁵

Shortly after Senator Dodd introduced the bill, the Senate Banking Committee approved it on March 22, 2010.¹⁶ The Banking Committee also approved a 114-page amendment.¹⁷ The amendment includes several insurance related provisions. First, the Office of the National Insurance would not have oversight authority of crop insurance.¹⁸ Second, the term "insurer" is defined to mean "any person that is authorized to write insurance or reinsure risks and issue contracts or policies in 1 or more States."¹⁹ Third, six months after the enactment of the bill, a study shall be completed to see how the bill "appropriately accommodates the business of insurance within an insurance company subject to regulation in accordance with State insurance company investment laws."²⁰ Finally, the amendment also prohibits the new Bureau of Consumer Financial Protection from defining "a financial product or service, by regulation or otherwise, engaging in the business of insurance."²¹

B. The President's Call for Financial Regulatory Reform

On June 17, 2009, the Obama administration released a white paper entitled "Financial Regulatory Reform – A New Foundation: Building Financial Supervision and Regulation," proposing comprehensive regulatory reform that implicates the insurance industry "as a major component of the financial system."²² In the white paper, the administration focuses on five goals: (1) promoting robust supervision and regulation of financial firms, (2) establishing comprehensive supervision of financial markets, (3) protecting consumers and investors from financial abuse, (4) improving the government's tools for managing financial crises, and (5) raising international regulatory standards and improving international cooperation.²³ The administration recommends establishing an Office of National Insurance within the Treasury Department that would be vested with the authority to gather information, develop expertise, negotiate international agreements and coordinate insurance policy.²⁴ The administration also outlines six principles of insurance regulation:

- Effective systemic risk regulation with respect to insurance.
- Strong capital standards and an appropriate match between capital allocation and liabilities for all insurance companies.
- Meaningful and consistent consumer protection for insurance products and practices.
- Increased national uniformity through either a federal charter or effective action by the states.
- Improved and broader regulation of insurance companies and affiliates on a consolidated basis, including those affiliates outside of the traditional insurance business.
- International coordination.²⁵

C. Department of the Treasury Federal Insurance Office

On December 11, 2009, the House of Representatives passed the Wall Street Reform and Consumer Protection Act (H.R. 4173) and referred it to the Senate.²⁶ Introduced on December 2, 2009 by Rep. Barney Frank (D-MA), the bill attempts to close certain regulatory loopholes relating to the 2008 economic crisis. Among the bill's proposals is the creation of a Federal Insurance Office (FIO) within the Treasury Department.²⁷ Portions of the bill dealing with the scope of the FIO's duties and powers, that had originally been authored by Rep. Paul Kanjorski (D-PA), influenced the Obama administration's June 2009 white paper.²⁸ The FIO's duties would include advisory functions (such as advising the Secretary of the Treasury on domestic and international insurance policy issues), and collecting data from insurers and issuing reports regarding all lines of insurance other than health insurance.²⁹ The bill expressly provides that it does not establish a general supervisory or regulatory authority over the business of insurance.³⁰ H.R. 4173 also bars the FIO from preempting state insurance laws regarding rates, premiums, coverage requirements, antitrust laws, and underwriting and sales practices.³¹ H.R. 4173 is now pending in the Senate Committee on Banking, Housing, and Urban Affairs.

D. Increased Fees on Large Financial Institution

On January 14, 2010, President Obama introduced a "Financial Crisis Responsibility Fee" in connection with his forthcoming budget proposal that aims to recoup losses from "the largest and most highly levered Wall Street firms."³² The proposed fee would apply to "covered institutions" with assets of more than \$50 billion.³³ Covered institutions are those that were, on January 14, 2010 (or thereafter became), insured depository institutions, insurance or other companies that owned insured depository institutions, bank holding companies, thrift holding companies and securities broker-dealers, because those institutions were recipients or indirect beneficiaries of aid provided through TARP or other programs that provided emergency assistance during the financial crisis.³⁴ Both domestic firms and U.S. subsidiaries of foreign firms would be subject to the fee.³⁵

E. Iranian Sanctions Affecting Insurance

On December 15, 2009, the House of Representatives passed the Iran Refined Petroleum Sanctions Act of 2009 (H.R. 2194) by a vote of 412 to 12. H.R. 2194 provides for sanctions against certain entities involved in exporting gas to Iran or assisting Iran with the improvement of its petroleum refining capacity, including insurers that take on associated risks. With respect to insurers, the Act amends the Iran Sanctions Act of 1996 to provide that the President shall impose sanctions for "underwriting or otherwise providing insurance or reinsurance for" "[p]roviding ships, vehicles, or other means of transportation to deliver refined petroleum products to Iran, or providing services relating to the shipping or other transportation of refined petroleum products to Iran."³⁶ The Senate passed similar legislation (S. 2799) on January 28, 2010, imposing what appear to be broader sanctions on insurers and underwriters, for "underwriting or otherwise providing insurance or reinsurance for the sale, lease, or provision of" certain "[g]oods, services, technology, information, or support that could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products."³⁷ A conference committee of the House and Senate must meet to reconcile differences between the two bills before Congress submits final legislation to President Obama for his signature.

F. Holocaust Era Exposure

On February 4, 2010, Representative Ileana Ros-Lehtinen (R-FL) introduced the Holocaust Insurance Accountability Act of 2010 in the House of Representatives (H.R. 4596). The bill would permit the enforcement of state disclosure laws and access to courts for covered Holocaust-era insurance policy claims, with the express purpose of enabling Holocaust survivors, heirs, and beneficiaries to more easily obtain compensation for their covered losses.³⁸ Specifically, the bill would allow for state laws creating a cause of action against any insurer based on a claim arising out of or related to a covered Holocaust-era insurance policy, or state laws requiring any insurer doing business in that state to disclose information regarding any covered policy, to not be invalid or preempted by any executive agreements between the United States and any foreign country.³⁹ H.R. 4596 is currently pending in the House Committees on Foreign Affairs and the Judiciary.

G. Review of Health Care Rate Increases

On February 22, 2010, President Obama unveiled a proposal for overhaul of the health care system that included a proposal that would institute government review of "unreasonable" insurance premium increases and rebates.⁴⁰ The proposal further provides that health insurers with a pattern of "excessive" rate increases could be blocked from selling through new insurance exchanges.⁴¹

H. Repealing the Antitrust Exemption for Health Insurance Companies

On February 23, 2010, the Obama administration announced its support for a bill pending in the House of Representatives that would repeal the antitrust exemption that currently protects health insurers.⁴² The administration stated that the repeal of the antitrust exemption would "outlaw existing, anti-competitive health insurance practices like price fixing, bid rigging, and market allocation that drive up costs for all Americans."⁴³ The bill, H.R. 4626, was introduced by Representative Thomas Perriello (D-VA) on February 22, 2010, and was passed by the House of Representatives on February 24, 2010 by a vote of 406–19.⁴⁴ On March 1, 2010 the Senate placed the bill on the Senate Legislative Calendar under General Orders.

II. Existing Federal Regulation of the Insurance Business

Although the government's current consideration of overhauls to the federal insurance regulatory scheme may appear to be a tremendous expansion of power since the enactment of the McCarran-Ferguson Act, federal regulation of insurance companies—both direct and indirect—already exists in various forms.

A. Medicare Mandatory Reporting

The Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) imposes new mandatory reporting requirements upon insurers that become obligated to pay Medicare beneficiaries for bodily injury claims and lawsuits where the settlement or other payment date is January 1, 2010 or later.⁴⁵ Congress' purpose in passing the MMSEA amendment was to facilitate the federal government's recovery of monies that it has paid to recipients who subsequently receive compensation for their injuries from third parties, including insurers.⁴⁶ Insurers that fail to comply with the new reporting requirements can be charged as much as \$1,000 for each day of noncompliance with respect to each claimant.⁴⁷ If the government is forced to sue the responsible insurer for recovery of the government's overpayment, the government may be awarded double the amount to which it is entitled.⁴⁸

B. Patriot Act

Title III of the Patriot Act, the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, is intended to make it easier for the federal government to prevent, detect, and prosecute international money laundering and the financing of terrorism.⁴⁹ Two provisions of Title III, in particular, impose duties on insurers: Section 326 of the Act, and the Patriot Act's amendments to the Bank Secrecy Act.

On April 30, 2003, the Department of the Treasury, the Financial Crimes Enforcement Network (FinCEN), and the seven federal financial regulators issued a final rule concerning Section 326 of the Title III of the Patriot Act.⁵⁰ The final rule requires certain financial institutions to establish procedures that would verify the identity of new accountholders.⁵¹ Section 326 applies to all "financial institutions," which is defined broadly in the Bank Secrecy Act⁵² to encompass a variety of entities, including insurance companies.⁵³ Financial institutions covered by the regulations were required to come into full compliance with the regulations by October 1, 2003.⁵⁴ The Section 326 final rule requires that all such financial institutions develop a Customer Identification Program that implements reasonable procedures to: (1) collect identifying information about customers opening an account, (2) verify that the customers are who they say they are, (3) maintain records of the information used to verify their identity and (4) determine whether the customer appears on any list of suspected terrorists or terrorist organizations.⁵⁵

On October 31, 2005, the FinCEN announced two final rules related to the Patriot Act's amendment of the Bank Secrecy Act that require certain U.S. insurance companies to establish anti-money laundering (AML) programs and file Suspicious Activity Reports (SARs).⁵⁶ The rules apply to insurance companies that issue or underwrite certain products that "present a high degree of risk for money laundering or the financing of terrorism or other illicit activity," and include permanent life insurance policies, other than group life insurance policies; annuity contracts, other than group annuity contracts; and any other insurance products with features of cash value or investment features.⁵⁷ Insurance companies subject to the AML requirements must establish a program that includes four basic elements: (1) a compliance officer responsible for ensuring that the program is implemented effectively; (2) written policies, procedures, and internal controls reasonably designed to control the risks of money laundering, terrorist financing, and other financial crime associated with its business; (3) ongoing training of appropriate persons concerning their responsibilities under the program; and (4) independent testing to monitor and maintain an adequate program.⁵⁸ Insurance agents and brokers are not required to have separate AML programs, but must be integrated into an insurance company's AML program and monitored for compliance.⁵⁹ Additionally, insurance companies subject to the SARs requirements must report any suspicious transaction that is conducted or attempted by, at, or through the institution when the transaction in question implicates \$5,000 or more of premium or potential payout.⁶⁰ Insurance companies may voluntarily file SARs regardless of whether the transaction meets the threshold amount, and would be protected from civil liability in doing so.⁶¹

C. SEC Filing Rules

As of February 6, 2006, a new SEC Rule 313 of Regulation S-T requires insurance company separate accounts issuing variable annuity contracts or variable life insurance policies and certain management investment companies to include unique series and class identifiers in their EDGAR filings that identify the series and class of a separate account or fund for which a particular filing is made.⁶² The SEC adopted the rule because it believes that SEC filings are of greater use to investors if they are readily available in electronic form.⁶³

D. Terrorism Risk Insurance Act

The Terrorism Risk Insurance Act was originally enacted in November 2002 to provide for a shared system of government and private insurer compensation for insured commercial property and casualty losses due to acts of terrorism.⁶⁴ It was subsequently renewed for two years in 2005,⁶⁵ and for another seven years in 2007 (extending the bill to 2014).⁶⁶ As part of the TRIA implementation process, the Department of the Treasury has issued rules for insurers governing claims procedures⁶⁷ and litigation management.⁶⁸

III. Conclusion

In the wake of the recent financial crisis, the federal government's longstanding policy to generally refrain from intervening in states' regulation of insurance companies is now being challenged in several legislative proposals that seek to consolidate regulation on the national level. Although most of the current proposals center around the creation of a new federal insurance office connected to the Treasury Department, such an office would potentially have only advisory power. The Obama administration's hesitance to promulgate a federal charter underscores the political problems associated with converting what historically has been largely a state-regulated scheme into a federal system of regulation. Moreover, in recent years there has already been increasing federal regulation of the insurance industry. Ultimately, it remains to be seen whether Congress and the Obama administration will create a strong federal insurance office and a federal charter in 2010. If it does, the affect on insurers could be dramatic.

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¹ The White House, Remarks by the President in State of the Union Address (Jan. 27, 2010), available at <http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address>.

² See The White House, Remarks by the President on Financial Reform (Jan. 21, 2010), available at <http://www.whitehouse.gov/the-press-office/remarks-president-financial-reform>.

³ Sewell Chan, *Reform Bill Adds Layer of Oversight*, *N.Y. Times*, March 16, 2010, at B1.

⁴ 75 U.S. 168 (1868).

⁵ *Id.* at 183 (holding that "[i]ssuing a policy of insurance is not a transaction of commerce").

⁶ *United States v. South-Eastern Underwriters Ass'n*, 322 U.S. 533, 553 ("No commercial enterprise of any kind which conducts its activities across state lines has been held to be wholly beyond the regulatory power of Congress under the Commerce Clause. We cannot make an exception of the business of insurance.").

⁷ 15 U.S.C. §§ 1011–1015.

⁸ National Insurance Consumer Protection Act, H.R. 1880, 111th Cong. (2009).

⁹ *Id.* § 303.

¹⁰ Proposed Senate Bill, "Restoring American Financial Stability Act of 2010" (March 15, 2010), available at http://banking.senate.gov/public/index.cfm?FuseAction=Issues.View&Issue_id=630c2b4a-ef2a-9ff3-5e79-bbe3c26422da.

¹¹ *Id.* at 384.

¹² *Id.* at 384–86.

¹³ *Id.* at 386.

¹⁴ *Id.* at 402–407.

¹⁵ *Id.* at 417–420.

¹⁶ Dodd's Financial Overhaul Bill Approved by Senate Banking Panel, Bloomberg News (March 23, 2010).

¹⁷ *Id.*

¹⁸ Manager's Amendments to the Senate Bill "Restoring American Financial Stability Act of 2010" (March 22, 2010), available at:

<http://www.financialreformwatch.com/uploads/file/Dodd-Markup-MgrsAmendment-3-22-10.pdf> at 56.

¹⁹ *Id.* at 57.

²⁰ *Id.* at 58.

²¹ *Id.* at 40. See also Proposed Senate Bill, "Restoring American Financial Stability Act of 2010" (March 15, 2010), available at

http://banking.senate.gov/public/index.cfm?FuseAction=Issues.View&Issue_id=630c2b4a-ef2a-9ff3-5e79-bbe3c26422da at 1095.

²² Press Release, The White House, President Obama to Announce Comprehensive Plan for Regulatory Reform (June 17, 2009), available at

http://www.whitehouse.gov/the_press_office/President-Obama-to-Announce-Comprehensive-Plan-for-Regulatory-Reform/; Financial Regulatory Reform – A New Foundation: Building Financial Supervision and Regulation (Dep't of the Treasury June 17, 2009) (hereinafter Financial Regulatory Reform), available at

http://www.financialstability.gov/docs/regs/FinalReport_web.pdf.

²³ Financial Regulatory Reform, at 2–4.

²⁴ *Id.* at 13.

²⁵ *Id.* at 40–41.

²⁶ Wall Street Reform and Consumer Protection Act of 2009, H.R. 4173, 111th Cong. (2009).

²⁷ *Id.* § 8001-05.

²⁸ Thomas Morante and David Sofge, *The Rise and Fall of the Federal Insurance Office*, Law360, Jan. 19, 2010, <http://www.law360.com/articles/143840>.

²⁹ H.R. 4173 § 8002.

³⁰ *Id.*

³¹ *Id.*

³² Press Release, The White House, President Obama Proposes Financial Crisis Responsibility Fee to Recoup Every Last Penny for American Taxpayer (Jan. 14, 2010), available at <http://www.whitehouse.gov/the-press-office/president-obama-proposes-financial-crisis-responsibility-fee-recoup-every-last-penn>; Fact Sheet, The White House, Financial Crisis Responsibility Fee, available at

http://www.whitehouse.gov/sites/default/files/financial_responsibility_fee_fact_sheet.pdf

³³ Fact Sheet, The White House, Financial Crisis Responsibility Fee, available at http://www.whitehouse.gov/sites/default/files/financial_responsibility_fee_fact_sheet.pdf

³⁴ *Id.*

³⁵ *Id.*

³⁶ Iran Refined Petroleum Sanctions Act of 2009, H.R. 2194, 111th Cong. § 3(a) (2009).

³⁷ Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009, S. 2799, 111th Cong. § 102(a) (2009).

³⁸ Holocaust Insurance Accountability Act of 2010, H.R. 4596, 111th Cong. (2010).

³⁹ *Id.* § 3.

⁴⁰ Sheryl Gay Stolberg & David M. Herszenhorn, *Obama's Health Bill Plan Largely Follows Senate Version*, N.Y. Times, Feb. 23, 2010 at A1; The White House, Putting Americans in Control of Their Health Care, Title I. Quality, Affordable Health Care for All Americans (Feb. 22, 2010), available at <http://www.whitehouse.gov/health-care-meeting/proposal/titlei>.

⁴¹ The White House, Putting Americans in Control of Their Health Care, *supra* note 40.

⁴² Statement of Administration Policy, Executive Office of the President, Office of Management and Budget, H.R. 4626 – Health Insurance Industry Fair Competition Act (Feb. 23, 2010), available at

http://www.whitehouse.gov/omb/assets/sap_111/saphr4626r_20100223.pdf.

⁴³ *Id.*

⁴⁴ Press Release, Congressman Tom Perriello, House Passes Perriello-Markey Bill to End Monopoly Protections for Health Insurers (Feb. 24, 2010), *available at* <http://perriello.house.gov/index.cfm?sectionid=25§iontree=6,25&itemid=480>.

⁴⁵ MMSEA Section 111 Medicare Secondary Payer Mandatory Reporting—Liability Insurance (Including Self-Insurance), No-Fault Insurance, and Workers' Compensation USER GUIDE, at 16 (July 31, 2009), *available at* <http://www.cms.hhs.gov/MandatoryInsRep/Downloads/NGHPUserGuide2ndRev082009.pdf>.

⁴⁶ Ray Mariani and Joseph Ortego, *Stricter Reporting Rules for Medicare Beneficiaries*, Law360, Dec. 21, 2009, <http://www.law360.com/articles/140134>.

⁴⁷ Medicare, Medicaid, and SCHIP Extension Act of 2007, Pub. L. No. 110-173, § 111, 121 Stat. 2492, 2497–2500.

⁴⁸ 42 U.S.C. § 1395y(b)(2)(B)(iii) (2008).

⁴⁹ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Pub. L. 107–56, § 302(b)(1), 115 Stat. 272, 297.

⁵⁰ Press Release, Dep't of the Treasury, Treasury and Federal Financial Regulators Issue Final Patriot Act Regulations on Customer Identification (Apr. 30, 2003), *available at* <http://www.ustreas.gov/press/releases/js335.htm>.

⁵¹ *Id.*

⁵² 31 U.S.C. §§ 5311–5332.

⁵³ See 68 Fed. Reg. 25,090 (Dep't of the Treasury May 9, 2003) (citing 31 U.S.C. § 5312(a)(2)).

⁵⁴ Press Release, Dep't of the Treasury, *supra* note 50.

⁵⁵ Fact Sheet, Dep't of the Treasury, Final Regulations Implementing Customer Identity Verification Requirements under Section 326 of the USA PATRIOT Act (Apr. 30, 2003), *available at* <http://www.ustreas.gov/press/releases/js335.htm>.

⁵⁶ News Release, Dep't of the Treasury Financial Crimes Enforcement Network, Insurance Companies Required to Establish Anti-Money Laundering Programs and File Suspicious Activity Reports (Oct. 31, 2005), *available at* http://www.fincen.gov/news_room/nr/pdf/20051031.pdf.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² See 70 Fed. Reg. 43,558 (Sec. & Exch. Comm'n July 27, 2005).

⁶³ *Id.* at 43,559.

⁶⁴ 68 Fed. Reg. 41,250, 41,251 (Dep't of the Treasury July 11, 2003).

⁶⁵ See 71 Fed. Reg. 50,341 (Dep't of the Treasury Aug. 25, 2006).

⁶⁶ See 74 Fed. Reg. 18,135 (Dep't of the Treasury Apr. 21, 2009).

⁶⁷ See 69 Fed. Reg. 44,932 (Dep't of the Treasury July 28, 2004).

⁶⁸ See 69 Fed. Reg. 39,296 (Dep't of the Treasury June 29, 2004).