

September 7, 1999

The Honorable Phil Gramm
United States Senate
Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Jim Leach
House Banking and Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

RE: Financial Services Act of 1999 [S. 900]

Dear Senator Gramm and Representative Leach:

The American Academy of Actuaries (the Academy)¹ recognizes and appreciates your efforts to develop a sound legislative proposal for the modernization of financial services. The trends toward the blurring of traditional distinctions among various types of financial risk (including insurance risk) are clear and will only be accelerated by legislation modernizing financial services. As companies and products mix elements of banking, investment and insurance, it is important to ensure that companies provide adequately for their risk exposure.

The Financial Services Act of 1999 allows banks, either directly or through their subsidiaries, to sell, broker and underwrite insurance products. Allowing banks into the insurance field raises a number of issues concerning consumer protection, regulatory oversight and the preemption of state laws and regulations dealing with insurance. We urge the Conference Committee to carefully review the Act's potential to preempt existing insurance regulations that protect the public.

The management of insurance risk requires skills and techniques that are different from those needed to manage investment risks. The risk associated with many insurance products can be of a catastrophic nature and large enough to threaten the solvency of banks that underwrite such products. Insurance risk is particularly complex, requiring the selection and application of appropriate assumptions based on a highly-trained and experienced understanding of the universe of those being covered, and the nature of the risks involved in each product.

¹ The American Academy of Actuaries is the public policy organization for actuaries of all specialties within the United States. In addition to setting qualification standards and standards of actuarial practice, a major purpose of the Academy is to act as the public information organization for the profession. The Academy is nonpartisan and assists the public policy process the presentation of clear actuarial analysis. The Academy regularly prepares testimony for Congress, provides information to federal elected officials, regulators and congressional staff, comments on proposed federal regulations, and works closely with state officials on issues related to insurance.

We would make the following specific comments regarding S. 900 as amended by the House of Representatives:

- The importance of strong functional regulation of financial entities' insurance practices can not be over-emphasized. We recommend that the Conference Committee's report include an unambiguous statement of its intent that federal and state regulators work closely together and cooperate to manage the activities of financial service providers.
- We urge the Conference Committee to carefully review the Act's potential to preempt insurance regulations that protect the public, and to take appropriate steps to prevent excessive preemption.
- Section 113 of the Act permits federal regulators to require affiliated insurance companies to provide capital to depository institutions. The Act allows state insurance regulators to prevent the transfer of funds if it would have a "materially adverse effect" on the financial condition of the insurance company. The Act provides that state insurance authorities should be notified "promptly" about any transfer of funds between a bank and its affiliated insurance company. We recommend that a specific, reasonable time frame for providing such notice to state insurance regulators be included in the legislation.
- Actuaries are uniquely qualified to deal with the measurement and management of insurance risk and can provide a valuable perspective to regulators. Most insurance regulatory agencies utilize the services of actuaries to assist them in evaluating the financial solvency of insurance entities. To help ensure that federal regulators have the necessary resources to deal appropriately with insurance risk, we urge that the Act require the establishment of an Office of the Actuary within each of the federal agencies responsible for financial services regulation.

If you have any questions for either of us, please feel free to contact us through Tom Wilder, Director of Public Policy, American Academy of Actuaries (202-785-7875 or wilder@actuary.org).

Sincerely,

Lawrence A. Johansen, Vice President
Financial Reporting Council

Donald E. Sanning, Chairperson
Task Force on Banking and Financial Services

cc: Members, Senate-House Conference Committee