SECTION 1. SHORT TITLE.

This Act may be cited as the “Transparent Insurance Standards Act of 2016”.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The State-based system for insurance regulation in the United States has served American consumers well for more than 150 years and has fostered an open and competitive marketplace with a diversity of insurance products to the benefit of policyholders and consumers.

(2) Protecting policyholders by regulating to ensure an insurer’s ability to pay claims has been the hallmark of the successful United States system and should be the paramount objective of domestic prudential regulation and emerging international standards.
(3) United States officials participating in discussions or negotiations regarding international insurance standards shall support standards designed for the protection of policyholders.

(4) The Secretary of the Treasury shall seek advice and recommendations from a diverse group of outside experts in performing the duties and authorities of the Secretary to coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters.

(5) The draft of the Higher Loss Absorbency capital standard adopted in 2015 by the International Association of Insurance Supervisors, notwithstanding the concerns of U.S. parties to the International Association of Insurance Supervisors, unequally affects insurance products offered in the United States, an issue that must be addressed.

(6) Any international standard agreed to at the International Association of Insurance Supervisors is not self-executing in the United States for any insurer until implemented through the required Federal or State legislative or regulatory process.
SEC. 3. OBJECTIVES FOR INTERNATIONAL INSURANCE STANDARDS.

The objectives of the United States regarding international insurance standards are as follows:

(1) To ensure standards that maintain strong protection of policy holders, as reflected in the United States solvency regime.

(2) To ensure, pursuant to enactment of the Insurance Capital Standards Clarification Act of 2014 (Public Law 113–279), standards that are appropriate for insurers and are not bank-centric in nature.

(3) To promote a principles-based approach to insurance supervision, in which capital adequacy is assessed using risk-based capital requirements for insurance combined with qualitative risk assessment and management tools.

(4) To consider the most efficient and least disruptive approaches to enhancing regulatory assessment of the capital adequacy of insurance groups, including tools that are already in place.

(5) To ensure that any international insurance standard recognizes prudential measures used within the United States as satisfying standards finalized by international standard-setting organizations.
(6) To support increasing transparency at any global insurance or international standard-setting organization in which the United States participates, including advocating for greater stakeholder public observer access to working groups and committee meetings of the International Association of Insurance Supervisors.

(7) To ensure that there is a sufficient period for public consultation and comment regarding any proposed international insurance standard before it takes effect.

(8) To ensure that the Secretary of the Treasury and the Board of Governors of the Federal Reserve System achieve consensus positions with State insurance commissioners when the Secretary and the Board are United States participants in discussions on insurance issues before the International Association of Insurance Supervisors, Financial Stability Board, or any other international forum of financial regulators or supervisors that considers such issues.

(9) To consider the impact of any such standard on the availability and cost of products to consumers.

(10) To avoid measures that could limit the availability and accessibility of risk protection and
retirement security products that are essential to meeting the needs of aging populations.

(11) To ensure that the merits of existing State-based capital standards are recognized and incorporated in any domestic or global insurance capital standard.

(12) To advocate for insurance regulatory standards that are based on the nature, scale, and complexity of the risks posed by the regulated insurance group and entity or activity.

SEC. 4. REQUIREMENTS FOR CONSENT TO ADOPT INTERNATIONAL INSURANCE STANDARDS.

(a) Publication of Standards; Adoption of Capital and Prudential Standards.—The United States may not agree to, accept, establish, enter into, or consent to the adoption of a final international insurance standard with an international standard-setting organization or a foreign government, authority, or regulatory entity unless the requirements under both of the following paragraphs are complied with:

(1) Publication.—The requirements under this paragraph are complied with if the conditions under one of the following subparagraphs have been met:
(A) By Federal Reserve and Treasury.—The Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury have caused the proposed text of the proposed final international insurance standard to be published in the Federal Register and made available for public comment for a period of not fewer than 30 days (which period may run concurrently with the 90-day period referred to in subsection (b)(3)).

(B) By State Insurance Commissioners.—The State insurance commissioners have caused the proposed text of the proposed international insurance standard to be published in a similar form and manner that provides for notice and public comment.

(2) Capital Standard.—In the case only of a final international insurance standard setting forth any capital standard or standards for insurers—

(A) such international capital standard is consistent with capital requirements set forth in the State-based system of insurance regulation;

(B) the Board has issued capital requirements for insurance companies supervised by the Board and subject to such requirements,
which shall be issued through rulemaking in accordance with the procedures established under section 553 of title 5, United States Code, regarding substantive rules, under which the periods for notice and public comment shall each have a duration of not fewer than 60 days; and

(C) to the extent that such international capital standard is intended to be applied to a company or companies supervised by the Board of Governors of the Federal Reserve System, is consistent with the capital requirements of the Board for such companies.

(b) Submission and Layover Provisions.—The Secretary and the Board may not agree to, accept, establish, enter into, or consent to the adoption of an international insurance standard established through an international standard-setting organization or a foreign government, authority, or regulatory entity unless—

(1) the Secretary and the Board have—

(A) conducted an analysis under subsection (c) of the proposed international insurance standard; and

(B) submitted to the covered congressional committees, on a day on which both Houses of Congress are in session, a copy of the proposed
final text of the proposed international insurance standard and the report required under subsection (c)(2) regarding such analysis;

(2) the Secretary and the Chairman of the Board have determined, pursuant to such analysis, that the proposed standard will not result in any change in State law;

(3) with respect to a capital standard under subsection (a)(2), the Secretary and the Chairman of the Board certify that the proposed international capital standard is designed solely to help ensure that sufficient funds are available to pay claims to an insurer’s policyholders in the event of the liquidation of that entity; and

(4) a period of 90 calendar days beginning on the date on which the copy of the proposed final text of the standard is submitted to the covered congressional committees under paragraph (1)(B) has expired, during which period the Congress may take action to approve or reject such final standard.

(c) JOINT ANALYSIS BY CHAIR OF THE FEDERAL RESERVE AND SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—An analysis under this subsection of a proposed final international insurance standard shall be an analysis conducted by the Sec-
retary and the Chairman of the Board of Governors of the Federal Reserve System, in consultation with the State insurance commissioners, of the impact of such standard on consumers and markets in the United States and whether any changes in State law will result from such final standard.

(2) REPORT.—Upon completion of an analysis under this subsection of a final international insurance standard, the Secretary and the Board shall submit a report on the results of the analysis to the covered congressional committees and the Comptroller General of the United States. The report shall include a statement setting forth the determination made pursuant to paragraph (1) regarding any changes in State law resulting from such final standard.

(3) NOTICE AND COMMENT.—

(A) NOTICE.—The Secretary and the Chairman of the Board of Governors of the Federal Reserve System shall provide notice before the date on which drafting the report is commenced and after the date on which the draft of the report is completed.

(B) OPPORTUNITY FOR COMMENT.—There shall be an opportunity for public comment for
a period beginning on the date on which the report is submitted under paragraph (2) and ending on the date that is not fewer than 60 days after the date on which the report is submitted. Nothing in this subparagraph shall affect the authority of the Board to issue the rule referred to in subsection (a)(2).

(4) Review by Comptroller General.—

Upon submission of a report pursuant to paragraph (2) to the Comptroller General, the Comptroller General shall review the report and shall submit a report to the Congress setting forth the conclusions of the Comptroller General’s review.

(d) Limited Effect.—This section may not be construed to establish or expand any authority to implement an international insurance standard in the United States or for the United States or any representative of the Federal Government to adopt or enter into any international insurance standard.

(e) Treatment of State Law.—In accordance with the Act of March 9, 1945 (Chapter 20; 59 Stat. 33; 15 U.S.C. 1011 et seq.), commonly referred to as the “McCarran-Ferguson Act”, this section may not be construed to preempt State law.
SEC. 5. REPORTS.

(a) REPORTS AND TESTIMONY BY SECRETARY OF THE TREASURY AND CHAIR OF THE FEDERAL RESERVE.—The Secretary and the Chairman of the Board of Governors of the Federal Reserve System shall submit to the covered congressional committees an annual report and provide testimony, not less often than every 6 months, to the covered congressional committees on the efforts of the Secretary and the Chairman with the State insurance commissioners with respect to international insurance standard-setting organizations and international insurance standards, including—

    (1) a description of the insurance standard-setting issues under discussion at international standard-setting bodies, including the Financial Stability Board and the International Association of Insurance Supervisors;

    (2) a description of the effects that international insurance standards could have on consumers and insurance markets in the United States;

    (3) a description of any position taken by the Secretary and the Board in international insurance discussions or on any international insurance standard;

    (4) a description of the efforts by the Secretary and the Board to increase transparency and ac-
countability at the Financial Stability Board with re-
spect to insurance proposals and the International
Association of Insurance Supervisors, including ef-
forts to provide additional public access to working
groups and committees of the International Associa-
tion of Insurance Supervisors; and

(5) a description of how the Secretary and the
Board are meeting the objectives set forth in section
3, or, if such objectives are not being met, an expla-
nation of the reasons for not meeting such objec-
tives.

(b) REPORTS AND TESTIMONY BY STATE INSURANCE
COMMISSIONERS.—The State insurance commissioners
may provide testimony or reports to the Congress on the
issues described in subsection (a).

(e) REPORT ON TRANSPARENCY.—Not later than
180 days after the date of enactment of this Act, the
Chairman of the Board of Governors of the Federal Re-
serve System and the Secretary shall submit to the Con-
gress a report and provide testimony to the Congress on
the efforts of the Chairman and the Secretary pursuant
to subsection (a)(4) of this section to increase trans-
parency at meetings of the International Association of In-
surance Supervisors.
(d) GAO Report on Transparency of Outside Organizations.—

(1) In general.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the covered congressional committees a report, and provide testimony to such committees, identifying and analyzing the transparency and accountability of any organization acting as a designee of, or at the direction of, the head of a State insurance department on issues related to international insurance standards, which is not employed directly by the State.

(2) Content.—The report and testimony required under this section shall include a description and analysis of—

(A) the role, involvement, or relationship, of any organization identified pursuant to paragraph (1), of, with, or to the State insurance departments’ activities as authorized by, directed by, or otherwise referred to in this Act, including a description and analysis regarding such organization’s participation in policy and decision-making deliberations and activities related to international insurance standards;
(B) any financial support provided by such organization to any State insurance department personnel in furtherance of their activities related to international insurance standards, the nature and amount of such support, and any understandings between the organization and the State regarding travel protocols and State laws governing State officials’ receipt of, benefitting from, or being subsidized by, outside funds;

(C) the budget, including revenues and expenses, of any organization identified pursuant to paragraph (1) relating to participation in international insurance discussions on issues before, involving, or relating to the International Association of Insurance Supervisors, the Financial Stability Board, or any other international forum of financial regulators or supervisors that considers such issues, and how the organization collects money to fund such activities;

(D) whether each such budget of such an organization is developed under a process comparable in its transparency and accountability to the process under which budgets are devel-
opposed and appropriated for State departments of
insurance and Federal executive branch regu-
latory agencies, including—

(i) an identification of any bodies
independent of the organization that set
standards for and/or oversee that organiza-
tion’s budgeting process; and

(ii) a description of the extent to
which and how the organization, in fund-
ing its operations, uses or benefits from its
members’ ability to compel entities subject
to its members’ regulatory authority to use
the services of the organization or any of
its affiliates; and

(E) the extent to which the work product
of any organization identified pursuant to para-
graph (1) has the effect of establishing any self-
executing national standards, and in what way,
and whether such standards are developed
under processes comparable in their trans-
parency and accountability to the process under
which national standards are developed by the
Congress or Federal executive branch agencies.

SEC. 6. DEFINITIONS.

In this Act:
(1) **Board.**—The term “Board” means the Board of Governors of the Federal Reserve System, or the designee of the Board.

(2) **Covered congressional committees.**—The term “covered congressional committees” means the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate.

(3) **International insurance standard.**—The term “international insurance standard” means any international insurance supervisory standard developed by an international standards setting organization, or regulatory or supervisory forum, in which the United States participates, including the Common Framework for the Supervision of Internationally Active Insurance Groups, the Financial Stability Board, and the International Association of Insurance Supervisors.

(4) **Secretary.**—The term “Secretary” means the Secretary of the Treasury, or the Secretary’s designee.

(5) **State insurance commissioners.**—The term “State insurance commissioners” means the heads of the State insurance departments or their designees acting at their direction.
SEC. 7. TREATMENT OF COVERED AGREEMENTS.

Section 314 of title 31, United States Code is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting before paragraph (2), as so redesignated, the following new paragraph:

“(1) the Secretary of the Treasury and the United States Trade Representative have caused to be published in the Federal Register, and made available for public comment for a period of not fewer than 30 days (which period may run concurrently with the 90-day period for the covered agreement referred to in paragraph (3)), the proposed text of the covered agreement;”; and

(2) by adding at the end the following new subsections:

“(d) CONSULTATION WITH STATE INSURANCE COMMISSIONERS.—In any negotiations regarding a contemplated covered agreement, the Secretary and the United States Trade Representative shall consult with and directly include State insurance commissioners.

“(e) PROHIBITION ON REGULATORY AUTHORITY.—In accordance with subsections (k) and (l) of section 313, a covered agreement shall not be used to establish or pro-
vide the Federal Insurance Office or the Treasury with any general supervisory or regulatory authority over the business of insurance or with the authority to participate in a supervisory college or similar process.

“(f) Treatment Under Other Law.—A covered agreement shall not be considered an international insurance standard for purposes of the Transparent Insurance Standards Act of 2016 and shall not be subject to such Act.”.

SEC. 8. DUTIES OF INDEPENDENT MEMBER OF FINANCIAL STABILITY OVERSIGHT COUNCIL.

Subsection (a) of section 112 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5322(a)) is amended by adding at the end the following new paragraph:

“(3) Duties of Independent Member.—To assist the Council with its responsibilities to monitor international insurance developments, advise Congress, and make recommendations, the Independent Member of the Council shall have the authority to—

“(A) regularly consult with international insurance supervisors and international financial stability counterparts;

“(B) consult with, advise, and assist the Secretary of the Treasury with respect to rep-
resenting the Federal Government of the United States, as appropriate, in the International Association of Insurance Supervisors (including to become a non-voting member thereof), particularly on matters of systemic risk, and to consult with the Board of Governors of the Federal Reserve System and the States concerning such matters;

“(C) attend the Financial Stability Board of The Group of Twenty and join with other members from the United States, including on matters related to insurance and financial stability, and provide for the attendance and participation at such Board, on matters related to insurance and financial stability, of State insurance commissioners; and

“(D) attend, with the United States delegation, the Organization for Economic Cooperation and Development and observe and participate at the Insurance and Private Pensions Committee of such Organization on matters related to insurance and financial stability.”.
SEC. 9. STATE INSURANCE REGULATOR INVOLVEMENT IN INTERNATIONAL STANDARD SETTING.

Parties representing the United States at the Financial Stability Board of the Group of Twenty on matters, and in meetings, related to insurance and financial stability shall consult with, and seek to include in such meetings, the State insurance commissioners.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act may be construed to support or endorse the domestic capital standard for insurers referred to in section 4(a)(2) or any such domestic capital standards established by the Board.

SEC. 11. SECURITIES AND EXCHANGE COMMISSION RESERVE FUND.

Clause (i) of section 4(i)(2)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(i)(2)(B)(i)) is amended by inserting before the semicolon the following: “, except that for fiscal year 2017, the amount deposited may not exceed $43,000,000”.

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