

COALITION FOR COMPETITIVE INSURANCE RATES

During the 111th Congress, a piece of legislation introduced by Rep. Richard Neal (D-MA) aimed to levy a tax on the domestic affiliates of foreign-based insurers and reinsurers. This bill, HR 3424, drew the objection of a large coalition of insurance industry firms, experts, regulators and legislators, trade analysts, business associations, and consumer advocates as it risked raising the cost of property and liability insurance and reducing America's overall insurance supply. To support their points, opponents of the Neal bill commissioned an independent economic analysis conducted by The Brattle Group economists Dr. Mike Cragg and Dr. Bin Zhou, along with Dr. J. David Cummins, the Harry J. Loman Professor Emeritus of Insurance and Risk Management at the Wharton School at the University of Pennsylvania. Known as "the Brattle Report", this document detailed the consequences of Neal's tax.

The Brattle Group estimated that the Neal Bill would cause a significant increase in insurance cost totaling between \$11 billion and \$13 billion to the US consumers, and those areas with a high risk for natural disasters, like the Gulf Coast and California, would experience a more disproportionately adverse impact. For the duration of the 111th Congress, the Brattle Report remained the only public economic analysis of this proposed legislation.

In January 2011, the Coalition for a Domestic Insurance Industry (CDII), a group made up of a handful of insurance companies who would stand to benefit from this tax, released a critique of the Brattle Report by LECG, which attempts to refute some of its findings. LECG concluded that consumers would not be affected by Neal's proposed tax and that it would not alter the supply of third-party reinsurance. The LECG report, however, does not offer an economic analysis of its own, instead choosing to use subjective assumptions about the insurance industry to bolster the arguments of the CDII.

Upon reviewing the LECG report, The Brattle Group economists stand by their initial findings and offer the following objections to the LECG findings, which they explain in the attached statement. Despite attempts by the CDII and LECG to disprove the Brattle Report, it remains the only thorough, publicly available economic study of the impact of this harmful tax proposal:

The Brattle Report shows that affiliate reinsurance plays a significant economic role and levying an additional, confiscatory tax on foreign affiliate reinsurance creates an unfair playing field.

Instead of directly responding to the multitude of reasons why affiliate reinsurance is an essential part of the modern insurance industry - for both foreign and domestic companies - the LECG report simply dismisses the economic reasoning and ignores the empirical evidence presented in the Brattle Report, including the significant impact affiliate reinsurance has on creating additional underwriting capacity. The LECG report inaccurately characterizes offshore affiliate reinsurance as merely a tax dodge, ignoring the widespread use of this risk management tool by domestic and foreign insurance groups in situations where no tax benefit arises. Moreover, LECG ignores the fact that foreign reinsurers already pay taxes to the United States on profits they earn here under existing corporate income tax laws, including US transfer pricing rules.

The Brattle Report accurately portrays the impact of foreign-based reinsurance on the US insurance market.

LECG criticizes The Brattle Group for not including onshore affiliate reinsurance in measuring the supply of reinsurance in the US. However, the LECG report ignores that the objective of the Brattle Report was to look at the effect on net insurance and reinsurance capacity available to the US market. Foreign reinsurance directly increases that capacity, while affiliate reinsurance between related US companies does not.

The Brattle Report is based on a complex and realistic simulation of the effects of Mr. Neal's proposal on the insurance marketplace.

LECG bases much of their rebuttal around an assumption that the Brattle Report used a demand-driven model to reach its conclusions. To the contrary, the Brattle Report looked at the way that three key factors - non-affiliate reinsurance, capital, and insurance capacity - would adjust jointly to a reduction in affiliate reinsurance in a post-Neal Bill environment.

Despite the CDII's and LECG's attempts to criticize the Brattle Report, the study continues to be the most extensive and accurate economic analysis of the proposed tax. CCIR stands by this analysis and urges officials to pay attention to the large cost this legislation could have on the very consumers who rely on affordable insurance the most.