

# Cosponsor Legislation to Clarify that Non-Financial Insurance Premiums Are Exempt From The Foreign Account Tax Compliance Act (FATCA)

## BACKGROUND

The Foreign Account Tax Compliance Act (FATCA) went into effect on July 1, 2015, with the intent to target and ultimately close illegal offshore tax shelters. The law requires that any U.S. entity conducting business with a Foreign Financial Institution (FFI) demonstrate that the institution is not holding untaxed U.S. dollars by collecting certification forms. If the certification cannot be acquired, then the U.S. company conducting the transaction will be required to withhold 30 percent of the payment. The law currently applies to non-cash value property/casualty insurance premiums sent overseas.

## THE ISSUE

**Non-cash value insurance premium payments made to overseas insurers cannot be used for the purposes of tax evasion. Their inclusion under the law's purview is clear regulatory overreach.**

A premium is paid to an insurer for coverage during a policy period and no money is returned unless there is a claim or the policy is cancelled. **Therefore, property/casualty insurance is not an investment vehicle and cannot be used as a way to evade taxes.** FATCA's goal is to close international accounts with cash value that are being exploited to avoid U.S. taxes, but it is misguided to equally target international property/casualty insurance premium payments.

**There is precedence demonstrating the regulatory recognition of the non-financial nature of property/casualty insurance premiums.** The post-9/11 Patriot Act recognizes this distinction and excluded non-cash value insurance from its anti-money laundering requirements because regulating them would not further its purposes, and other countries with similar tax evasion laws rightly exclude non-financial property/casualty premiums from their reach.

Following and documenting the complex global web of non-financial property/casualty transactions within the insurance and reinsurance industries is significantly cumbersome, and requiring brokers to comply with FATCA's certification process is excessive and expensive.

As of January 1, 2017, the situation has become worse for brokers because regulations now require further documentation of foreign-to-foreign transactions. The layers of ceded reinsurance in complex commercial property/casualty international placements create an arduous compliance burden on our industry sector to achieve no conceivable benefit.

## OUR POSITION

**The Council of Insurance Agents & Brokers urges Members of Congress to co-sponsor legislation, H.R. 871, introduced by Reps. Jason Smith (R-MO), Ed Royce (R-CA) and John Larson (D-CT). H.R. 871 will exempt non-financial insurance premiums from FATCA requirements.**

**Non-financial/non-cash value insurance premiums should be exempt from FATCA requirements.** U.S. interests are not served by including all P/C insurance and other non-cash value insurance and reinsurance premiums within FATCA. The regulatory compliance cost facing the global insurance marketplace is significant, with no apparent benefit to the U.S. government.

## ABOUT US

The Council of Insurance Agents & Brokers is the premier association for the top regional, national and international commercial insurance and employee benefits brokerage firms worldwide. Council members are market leaders who annually place 85 percent of U.S. commercial property/casualty insurance.

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