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KEVIN B. THOMPSON, F.C.A.S., M.A.A.A.
SENIOR VICE PRESIDENT
INSURANCE SERVICES DEPARTMENT

July 17, 2006

The Honorable Arlen Specter, Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510
Attn: Baer Huefner

Dear Chairman Specter:

It was my pleasure to appear at the United States Senate Judiciary Committee hearing regarding "The McCarran-Ferguson Act: Implications of Repealing the Insurers' Antitrust Exemption" and discuss the vital role ISO plays in the Property/Casualty insurance industry in the United States.

Attached to this letter are responses to the additional questions transmitted with your June 29th letter to me.

I hope these responses are informative.

Sincerely,

Kevin B. Thompson
Senior Vice President

Attach.

Questions of Senator Patrick Leahy
Following the Senate Judiciary Committee Hearing
"The McCarran-Ferguson Act: Implications of Repealing the Insurers' Antitrust Exemption"
June 20, 2006

Questions for Mr. Kevin Thompson

1. When your company, Insurance Services Office, formulates its advisory information, do you take into account current and predicted future financial market conditions? If so, how do financial market conditions affect the advisory data you distribute?

Answer:
In formulating ISO's advisory information, ISO does not take into account current or predicted future conditions in the financial markets.

2. In your written testimony, you predict that if the McCarran-Ferguson insurers' exemption were repealed, insurers would experience a chilling effect, which could "deprive insurers of legitimate use of pro-competitive advisory organization products and services." If the McCarran-Ferguson insurers' exemption were repealed, could your company continue its operations consistent with Federal antitrust law? If so, would you be required to refine your services to comply with Federal antitrust laws? If so, how?

Answer:
If the McCarran-Ferguson limited antitrust exemption were to be repealed, ISO believes that all of its activities would eventually pass antitrust muster under a rule of reason analysis because they are pro-competitive and consistent with the antitrust laws. Accordingly, we do not believe that, if challenged, a court would require any refinement of our services. Yet, as is clear from the testimony of Mr. Hunter, our opinion is not shared by all.

In the wake of McCarran repeal, each insurer would have to determine for itself the risks associated with participation in ISO activities and use of its information. The cost of litigating rule of reason cases is high and the chances of prevailing in them are difficult for even the most experienced lawyers to predict. This was recognized by the GAO in its July 28, 2005 report on McCarran-Ferguson to Representative Oxley, Chairman of the House Committee on Financial Services, which stated "...because the courts have not considered which activities within the "business of insurance" might violate federal antitrust laws, it is difficult to determine which insurer activities would withstand antitrust scrutiny if the exemption were removed." As I stated in my testimony, Faced with this uncertainty, there would undoubtedly be a tendency on the part of insurers to question the wisdom of participating even in those activities that would ultimately be sustained as pro-competitive under antitrust "rule of reason" analysis. Uncertainty about the outcome would persist for years until a sufficient body of law was established on the topic.