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February 27, 2009

The Honorable Max Baucus
Chairman
United States Senate Committee on Finance
Washington, D.C. 20510

Dear Chairman Baucus:

I hope that I might share some concerns regarding the Senate Finance Committee "Staff Discussion Draft" proposal to modify tax treatment of insurance companies that deduct premiums in excess of the industry average."

U.S. subsidiaries of foreign companies play an important role in the U.S. economy, operating in all 50 states and employing 5.3 million Americans with an annual payroll of \$364.2 billion. Americans now own over \$5.2 trillion in foreign equities meaning that many "foreign" companies are part of Americans' portfolios.

U.S. subsidiaries of foreign based companies will be essential to the economic recovery our nation. In addition to the direct employment they support, U.S. subsidiaries obtain the large majority of their goods, services, and other inventory from domestic firms, not from imports. In 2006, these companies spent nearly 78 cents out of every dollar with domestic suppliers and reinvested \$68.5 billion in their U.S. operations. U.S. subsidiaries also spent over \$34 billion on U.S.-based research and development and \$160 billion on plant construction and new equipment.

This proposed measure potentially penalizes U.S. subsidiaries of foreign insurance and reinsurance companies and is not in the United States' best interest, particularly now. If modifications to our tax code are needed, they should be fully consistent with our existing tax and trade treaty commitments. As you know too well, we have fought long and hard with our trade partners to ensure that U.S. investors abroad are treated fairly. If we do not provide fair and equitable treatment to foreign reinsurance firms operating in the United States, we put our own investors at risk of retaliation abroad.

The United States will be facing increasingly difficult odds in maintaining, much less growing foreign direct investment. According to the United Nations Conference on Trade and Development (UNCTAD), worldwide foreign direct investment inflows shrank 21% in 2008 to \$1.4 trillion. The World Association of Investment Promotion Agencies says FDI will contract by a further 12-15% this year. In the last two years, German, Japanese, Australian and Bermudian insurance companies have made significant U.S. investments. These investments might not have been made if those companies had known that their use of affiliated reinsurance

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as a source of risk management would have been restricted. The United States should be doing everything possible to encourage and sustain foreign investment in the U.S. insurance market.

Further, we risk sowing the seeds of new measures designed to inhibit unfairly the flow of trade as a result of growing uncertainty throughout the global economy. Brazil, India, Ecuador, Vietnam, and Indonesia have raised tariffs on key products to protect domestic producers. France's auto bailout includes domestic manufacturing requirements and Canada's steel industry has proposed its own "Buy Canada" program.

The President's address this week to the Joint Session of Congress underscored his Administration's commitment to respond to the economic crisis and restore confidence in our financial system, without resorting to measures which discourage foreign investment in the United States or put restrictions on trade or investment flows. Your efforts, along with those of Senator Dorgan, to ensure that the "Buy American" provisions of the stimulus bill would be implemented in accordance with our international trade commitments struck the right balance between growing the U.S. economy and remaining a good partner in the global economy. A similar approach is needed in dealing with the tax treatment of U.S. subsidiaries of foreign insurance and reinsurance companies.

As the President said, "the world depends on us to have a strong economy, just as our economy depends on the strength of the world's." These are complex issues in unprecedented times and I fully appreciate the delicate balance involved in addressing this issue. I know that you will give all sides your full consideration.

Sincerely,

A handwritten signature in black ink that reads "Mickey Kantor/rs". The signature is written in a cursive, flowing style.

Mickey Kantor