

EXAM 6 – UNITED STATES, SPRING 2015

3. (2.75 points)

a. (0.75 point)

Identify three arguments the Supreme Court used in its ruling against the South-Eastern Underwriters Association (SEUA).

b. (0.5 point)

Briefly describe two ways in which the Gramm-Leach-Bliley Act extends the influence of the federal government in insurance regulation.

c. (0.5 point)

Briefly describe two ways in which the Dodd-Frank Act extends the influence of the federal government in insurance regulation.

d. (1 point)

Discuss one argument in favor of federal insurance regulation and one argument in favor of state insurance regulation.

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**SAMPLE ANSWERS AND EXAMINER'S REPORT**

<b>QUESTION 3</b>	
<b>TOTAL POINT VALUE: 2.75</b>	<b>LEARNING OBJECTIVE: A1/A2/A4</b>
<b>SAMPLE ANSWERS (BY PART, AS APPLICABLE)</b>	
Part a: 0.75 point	
<p>The following provide examples of thorough responses having the necessary components to demonstrate knowledge of the topic and obtain full credit; any three of the following were accepted:</p> <ul style="list-style-type: none"> <li>• Congress intended the Sherman Act / Anti-trust law to prohibit conduct that restrained/monopolized interstate trade</li> <li>• Insurance not distinct to a given state—the same insurer can write business with insureds in different states</li> <li>• Only a small number of members of the SEUA were domiciled in one of the SEUA states</li> <li>• Other intangible products were subject to the commerce clause</li> <li>• Other businesses sell products in non-domiciliary states; these businesses are subject to the commerce clause</li> <li>• Would have to make specific exception to the business of insurance for commerce clause not to apply</li> </ul>	
Part b: 0.5 point	
<p>The following provide examples of thorough responses having the necessary components to demonstrate knowledge of the topic and obtain full credit; any two of the following were accepted:</p> <ul style="list-style-type: none"> <li>• Requires states to facilitate insurance producers' ability to operate in more than one state</li> <li>• Prohibits states from preventing bank-related entities from selling insurance</li> <li>• Prohibits national banks from forming subsidiaries to underwrite insurance</li> <li>• Allows bank financial holding companies to create insurance affiliates</li> <li>• Federal government established information sharing disclosure guidelines between banks and insurance companies</li> </ul>	
Part c: 0.5 point	
<p>The following provide examples of thorough responses having the necessary components to demonstrate knowledge of the topic and obtain full credit; any two of the following were accepted:</p> <ul style="list-style-type: none"> <li>• Authorizes the federal government to negotiate (or pre-empt state laws which conflict with) international insurance agreements</li> <li>• Legislates several changes in the non-admitted market (two specific examples below would be enough for full credit) <ul style="list-style-type: none"> <li>○ Requires that only home state of insured party may impose a premium tax</li> <li>○ Compels states to adopt uniform rules and procedures</li> <li>○ Requires that placement in non-admitted market be regulated only by the insureds' home state</li> <li>○ Exempts brokers and large commercial purchasers from doing full due diligence on whether insurance could be placed with an admitted carrier</li> </ul> </li> </ul>	

## SAMPLE ANSWERS AND EXAMINER'S REPORT

- Legislates several changes in the handling of reinsurance arrangements (two specific examples below would be enough for full credit)
  - Requires states to allow reinsurance credit for a ceding company if the ceding company's domiciliary state allows it and is accredited
  - Gives reinsurer's domiciliary state sole responsibility for regulating its financial solvency
  - Preempts extraterritorial application of credit for reinsurance laws by states other than the domiciliary state
  - Permits states to proceed with reinsurance collateral reforms if they are accredited
  - Establishes the Federal Insurance Office ("FIO" is also acceptable) which is authorized to require insurers to submit data/information (OR establishes insurance expertise at the federal level)
  - Insurers/Reinsurers that use derivatives could be subjected to central clearing/trading requirements

### Part d: 1 point

The following provide examples of thorough responses having the necessary components to demonstrate knowledge of the topic and obtain full credit; for each type of regulation (federal and state) any one of the following items was accepted:

#### In favor of federal insurance regulation

- More efficient because less duplication of effort for the regulator and the insurer, compared to state regulation, where insurers must answer to regulators in multiple states
- More efficient because uniform regulation facilitates entry and exit, making it easier for insurers to do business in multiple states
- Facilitates dealings with international markets because it creates a single point of contact for foreign regulators/governments

#### In favor of state insurance regulation

- U.S. is geographically large and diverse so consumer protection / solvency regulation / rate regulation (only one necessary) best served by state regulators familiar with these state-specific features
- States have/experience state-specific perils so regulators in different states necessarily have different focuses / expertise
- States differ dramatically in population densities, urban vs. rural makeup, population age/income distribution, etc., (only one necessary) which thereby require different regulatory structures/rules
- Regulations behind some lines of business vary considerably from state to state, making state-specific expertise useful
- Duplication of effort inherent in state system results in more effective solvency regulation because individual regulators make mistakes
- Opportunities for peer review help to avoid regulatory forbearance/regulatory capture
- State regulation proved it is not broken in the banking crisis, where insurance solvency was

## SAMPLE ANSWERS AND EXAMINER'S REPORT

better handled than banking sector

### EXAMINER'S REPORT (BY PART, AS APPLICABLE)

The question required the candidate to show a basic understanding of the SEUA decision, Gramm-Leach Bliley, and the Dodd Frank Act, as well as benefits and disadvantages of different regulatory structures. Most candidates performed well on this question. Where candidates lost credit, the most typical mistakes were as follows:

- Part a
    - Some candidates listed items such as boycott, coercion, etc. as arguments used by the Supreme Court, but did not connect them to the Supreme Court's decision – which was that the Sherman Anti-Trust (accepted various forms of this wording) was intended to apply to insurance
    - Some candidates referred to the Robinson-Patman act, which became applicable to insurance following this ruling, but was not directly cited as a reason for the ruling
  - Part b
    - Some candidates confused GLB with Dodd Frank decision
    - There was some general confusion around the difference between underwriting and selling/producing
  - Part c
    - Some candidates confused GLB with Dodd Frank decision
  - Part d
    - Most candidates received full credit, but where credit was taken off, it generally was due to not describing in enough depth or not actually giving a reason
- Examples include:
- State regulation is in public's interest (question asks for a discussion and therefore two thoughts, such as "why" state regulation is in the public's interest)
  - Federal regulation is easier (again looking for a discussion as to "who" federal regulation is easier for or "why", e.g., "for multi-state insurers", or "reduce cost", "because it enables uniform filing forms", etc.)