

EXAM 6 – UNITED STATES, SPRING 2016

6. (2.25 points)

a. (0.5 point)

Identify two exceptions to the principle of state-based insurance regulation outlined in the McCarran-Ferguson Act.

b. (0.5 point)

Briefly describe two characteristics of the business of insurance, as recognized by the courts.

c. (0.25 point)

Identify the legislation that established the Federal Insurance Office.

d. (1 point)

Briefly describe the Federal Insurance Office with respect to the following:

- How it is structured
- Three of its responsibilities

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**SAMPLE ANSWERS AND EXAMINER'S REPORT**

<b>QUESTION 6</b>	
<b>TOTAL POINT VALUE: 2.25</b>	<b>LEARNING OBJECTIVE: A4</b>
<b>SAMPLE ANSWERS</b>	
<b>Part a: 0.5 point</b>	
Any two of the following: <ul style="list-style-type: none"> <li>• The Sherman Act prohibits boycott, coercion and intimidation and applies to insurance</li> <li>• Federal anti-trust laws, to the extent not regulated by state law</li> <li>• If states are not regulating, federal law applies</li> <li>• Federal laws enacted specifically/exclusively/uniquely to regulate the business of insurance preempt any state laws applying to the same activities</li> <li>• Federal law regulates insurer activities not specific to the business of insurance</li> <li>• Labor laws regulated by federal law</li> </ul>	
<b>Part b: 0.5 point</b>	
Any two of the following: <ul style="list-style-type: none"> <li>• The insurer spreads or underwrites the policyholder's risk</li> <li>• Transfer of risk</li> <li>• The insurer and the insured have a direct contractual agreement</li> <li>• The relationship between insured and insurer</li> <li>• The activity is unique/specific/exclusive to entities in the insurance industry (i.e., excludes activities related to all companies such as paying taxes)</li> <li>• Insurer's fixing rates</li> <li>• Licensing of insurers/agents</li> <li>• Selling and advertising of insurance policies</li> </ul>	
<b>Part c: 0.25 point</b>	
<ul style="list-style-type: none"> <li>• Dodd-Frank Act</li> </ul>	
<b>Part d: 1 point</b>	
<p>Structure: Any one of the following:</p> <ul style="list-style-type: none"> <li>• It is part of the Federal Dept. of the Treasury.</li> <li>• Its director serves as an advisor to the Financial Stability Oversight Council (FSOC).</li> </ul> <p>Responsibilities: Any three of the following:</p> <ul style="list-style-type: none"> <li>• It has authority over all lines of insurance excluding health, long term care, and crop.</li> <li>• It can gather/collect information about the insurance industry</li> <li>• Monitor the insurance industry</li> <li>• It can make recommendations for modernizing and improving insurance regulation</li> <li>• It can recommend that the FSOC designate an insurer as an entity that could pose a risk to the financial system as a whole, and thus should be regulated by the Federal Reserve Board.</li> </ul>	

## SAMPLE ANSWERS AND EXAMINER'S REPORT

- Has authority to preempt state law if those laws are in conflict with certain international insurance agreements.
- Coordinates federal efforts and policy on international insurance matters
- Represent the US as a point of contact internationally (e.g. to the IAIS)
- Assists in negotiating international insurance agreements
- Consult with states regarding insurance matter of national/international importance
- Assists in administering TRIA
- Reports annually to U.S. House and Senate on the insurance/reinsurance industry

### EXAMINER'S REPORT

#### Part a

Candidates generally performed well identifying exceptions to McCarran-Ferguson Act. Common errors included stating that federal law superseded state law in all cases, specifying that collusion and price fixing are exemptions from state-based regulation

#### Part b

Candidates generally performed well briefly describing characteristics of the business of insurance as recognized by the courts. Common errors included discussion on general aspects of insurance that are not characteristics of the business of insurance as recognized by the courts, such as:

- involves uncertainty in payments/profit/loss
- actual costs/losses are not known when rates are set
- involves indemnification/promise to indemnify

#### Part c

Most candidates performed well. The most common error was to misidentify the Dodd-Frank Act as the Gramm-Leach-Bliley Act.

#### Part d

Candidates generally struggled to briefly describe the structure of the FIO. Many responses did not address the structure and only addressed the responsibilities of the FIO.

Candidates generally were successful in briefly describing responsibilities of the FIO. Common errors included overstating the regulatory power of the FIO, discussing aspects of Dodd-Frank that are not FIO responsibilities.