4. (3.5 points)

   a. (1 point)

      Describe the circumstances and describe the result of *Paul v. Virginia*.

   b. (0.5 point)

      Describe the role of the federal government in regulating the business of insurance according to the McCarran-Ferguson Act.

   c. (1 point)

      Identify four ways in which insurance companies are regulated by states.

   d. (1 point)

      Identify two insurance programs in which the federal government is involved, and briefly describe the role of the federal government in each program.

CONTINUED ON NEXT PAGE

Common errors included the following: • Peer pressure from other regulators – while this idea is referenced in the syllabus, it is framed as an incentive to act, therefore preventing regulatory forbearance (and is not an effect because peer pressure exists regardless of regulatory forbearance). • Loss of faith/credibility in regulators – similar to peer pressure, this is considered to be an incentive to act to prevent regulatory forbearance rather than an effect • Market disruption (inequitable rates, impact on guaranty funds) – this concept was often described as an impact of insolvency without reference to regulatory forbearance specifically and therefore not given credit. • Insolvency – insolvency can be cause by issues other than regulatory forbearance; it is not a direct result of the inaction by a regulator.
Part d
Candidates were expected to understand various RBC scenarios where regulatory forbearance may exist. The most common error was providing other RBC action levels. Under Company Action Level, the regulator does not have authority to act. Under Mandatory Control Level, the regulator must act.

QUESTION: SPRING 2018 EXAM 6U, QUESTION 4	
TOTAL POINT VALUE: 3.5	**LEARNING OBJECTIVES: A4, A1, B2**
SAMPLE ANSWERS	
Part a: 1 point	
<u>*Sample Responses for Circumstances*</u> • After applying for a license to do so and being denied, Paul sold insurance in VA for NY insurers. He was arrested since NY insurers did not have necessary deposit in VA and he continued to sell the NY insurance. • Paul wanted to represent an insurance domiciled in New York to sell insurance in Virginia. This was rejected by the Virginia regulator because the insurer did not post the required foreign insurer deposit. Paul went on to sell insurance policies anyway and was later arrested. • Paul wanted to sell insurance policies underwritten by NY companies in his home state of VA. VA officials balked as the insurers hadn't paid up the required foreign insurer's bond. Paul sold the policies anyway as he felt he was engaged in interstate commerce, which would be subject to federal, and not state regulation. • Paul wanted to be licensed in Virginia to sell/issue the policies of a NY insurer. He was refused the license but decided to sell anyway. He was arrested. <u>*Sample Responses for Results*</u> • It went to court and the result was that insurance was not an interstate commerce and should be regulated by the states. • The lower court, affirmed by the Supreme Court, ruled that insurance was delivered locally and not subject to the commerce clause. Therefore, insurance was subject to state	

regulation and not subject to federal regulation. Paul was not absolved of running afoul of Virginia authorities. • Paul v. Virginia established that insurance was not interstate commerce and therefore should be regulated by the states.
Part b: 0.5 point
• The federal government could create laws specific to the insurance industry. Sherman Act still applied in terms of boycott, collusion to gain monopoly power if state laws didn't cover this on their own. • Insurance is subject to state regulation. Fed can step in when states do not have laws in certain insurance areas. • Government regulates antitrust laws if states aren't doing so. Sherman Antitrust Act applies in regards to boycott, coercion, and intimidation. Federal laws applying directly to business of insurance supersede any state laws. • McCarran-Ferguson Act says states have the authority to regulate the business of insurance. Exceptions – Sherman Antitrust laws still apply with respect to boycott, coercion, and intimidation – Federal government applies if no state law exists – If a federal law specifically created for unique circumstances applying to insurance.
Part c: 1 point
• Rate filing • Licensing of insurance companies • Financial exams • Monitor solvency / RBC • Monitor market conduct • Require Annual Statement • On-site examinations • Minimum capital requirements • Guaranty funds • Review coverages / forms / specify minimum limits • Power to impose sanctions / intervene • Review IRIS Ratios • Impose taxes • Financial reporting • Require SAO / monitor reserve adequacy • Regulate investment affairs • Specify reinsurance provisions • Prior approval • Use and file • File and Use • No filing
Part d: 1 point
• Social Security – federal government is the exclusive provider • NFIP – private insurers market and service policies, federal government acts as reinsurer

(per Government Insurers Study Note)

- NFIP – The Federal government serves as a direct primary insurer of last resort (per King National Flood Insurance paper)
- Crop Insurance – The federal government is the reinsurer of this exposure over the private market.
- TRIA – the federal government share loss costs with insurance companies once terrorism losses reach the attachment point
- Unemployment Insurance – government is exclusive provider and bears all the costs
- FECA – only option for federal employees and the government acts as exclusive provider
- Longshore and Harbor Workers Compensation Act – government prescribes benefits of program for certain workers not covered by state WC
- Black Lung Benefits Act – Federal government provides WC benefits for black lung victims; fed benefit reduced by state benefit.
- Medicare – federal government provides health insurance to older people, pays secondary to WC

EXAMINER'S REPORT

Candidates were expected to demonstrate an understanding of Paul v. Virginia, the role of the federal government in regulating the business of insurance according to the McCarran-Ferguson Act, ways in which states regulate insurance carriers, and insurance programs in which the federal government plays a role.

Part a

Candidates were expected to understand the circumstances and the result of *Paul v. Virginia*.

Common errors regarding the circumstances included:

- Stating that Paul was a licensed agent in VA.
- Not mentioning that the carrier was out-of-state.
- Stating facts that were not relevant to the case, such as Paul was an agent licensed in NY.

Common errors regarding the results included:

- Stating that the business of insurance is not a national commerce, as this is an inaccurate description.
- Stating that the Supreme Court ruled in favor of Paul because insurance transactions didn't constitute interstate commerce, as this is inaccurate description.

Part b

Candidates were expected to explain the role of the federal government in regulating the business of insurance according to the McCarran-Ferguson Act.

Common errors included:

- Providing responses that were not specific to insurance, such as the federal government has power to pass laws that supersede state laws
- Providing responses that do not demonstrate sufficient understanding of the impact of the McCarran-Ferguson Act, such as stating that the federal government provides high-level supervisor of changes in policy while the states deal more directly with supervision

of insurers.
Part c
Candidates were expected to understand how states regulate insurance. Common errors included: • Describing the groups involved in regulation rather than actual methods of regulation. For example "Legislative Branch, Judicial Branch, Executive Branch." • Not providing specific methods of regulation. For example "State laws applicable to insurance / insurer must follow state rules."
Part d
Candidates were expected to identify and describe the role of the federal government in two insurance programs. Common errors included: • Identifying a state-run program, rather than one in which the federal government was involved (FAIR, Residual Auto, WC). • "RRGs." These are alternate risk transfer entities made possible through the Liability Risk Retention Act, but the RRGs form under the laws of a state. These are not insurance programs in which the federal government has a role. • Providing insufficient explanation on the relationship, such as only stating "partner". • Providing an inaccurate description of the role of the federal government for a given program. For example, stating "writing, servicing, collecting premium, and/or paying losses" for Social Security.

QUESTION: SPRING 2018 EXAM 6U, QUESTION 5	
TOTAL POINT VALUE: 1.5	**LEARNING OBJECTIVE: A4**
SAMPLE ANSWERS	
Part a: 0.75 point	
Sample Responses • It prohibits national banks from forming subsidiaries to sell insurance • Financial holding companies allowed to create insurance affiliates • If holding company holds bank and insurer, funds may not be used from bank to pay claims • It prevents states from prohibiting banks from selling insurance • It facilitates producer's ability to operate in multiple states • Banks must disclose information sharing practices between its banking and insurance counterparts • Reaffirms that states continue to regulate insurance • Separates the underwriting and marketing of insurance. Banks can market insurance sold by affiliates. • Customer data protections to keep bank and insurance from sharing data of customers	
Part b: 0.25 point	