LAW360 Insurance Authority

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Barney Frank's Legacy Continues To Shape Insurance

By **Eli Flesch**

Law360 (May 28, 2026, 7:21 PM EDT) -- Former Massachusetts Rep. Barney Frank's legislative effort to safeguard the American financial system through the Dodd-Frank Act yielded landmark banking reforms as well as meaningful changes for the insurance industry.

U.S. Rep. Barney Frank, D-Mass., left, and Sen. Christopher Dodd, D-Conn., speak to reporters in May 2010, two months before the enactment of the Dodd-Frank Act, a sweeping federal response to the 2008 financial crisis. (AP Photo/Susan Walsh, File)

Frank's work also helped spur debate over how much the federal government should oversee a state-regulated industry.

Insurance regulatory attorneys said Frank, who first won public office in the 1970s and died last week at 86, played a key role in creating the Federal Insurance Office and allowing the government to designate insurers as systemically important financial institutions subject to higher scrutiny.

Those changes were part of the Dodd-Frank Act of 2010, a sweeping federal law Frank co-sponsored following the 2008 financial crisis and the massive taxpayer bailout of AIG.

In addition to establishing stricter bank regulation, Dodd-Frank also helped create uniform standards in the reinsurance and surplus lines space.

"When you put it all together, it's quite a legacy for a statute that was not intended to be focused on the

insurance and reinsurance industry," said Vikram Sidhu, a partner at Mayer Brown who advises insurance and reinsurance companies on regulatory matters.

He said that a bill included in Dodd-Frank — the Nonadmitted and Reinsurance Reform Act — contained provisions that helped grow out the surplus lines market, a less-regulated part of the insurance industry that is responsive to specialized or higher risks.

The bill, Sidhu said in an interview with Law360, provided that the home state of the insured would be the one that would have sole regulatory authority and the ability to tax the surplus lines placement.

That has helped harmonize the regulation of surplus lines, he said, reducing the complexity of a pre-Dodd-Frank world for surplus brokers.

He also noted that Dodd-Frank created a mechanism by which foreign reinsurers — which make up a considerable portion of the global market for offsetting insurers' losses — could be treated like U.S. reinsurers.

The bill permitted the FIO to help negotiate "covered agreements" that allowed foreign reinsurers to avoid posting collateral as part of an agreement to cover risk held by U.S. insurance companies.

Those covered agreements required states to change their laws and regulations to allow for the recognition of reinsurers from recognized reciprocal jurisdictions, like the United Kingdom and European Union.

The National Association of Insurance Commissioners — a standard-setting organization made of state insurance chiefs — later added Bermuda, Japan, and Switzerland as reciprocal jurisdictions, he noted.

"It's led to a lot of efficiencies in the reinsurance market, where you have this whole world of reinsurers that meet the requirements, of course, for that status, including being well-capitalized," Sidhu said of Dodd-Frank and reciprocal jurisdiction status.

While the Nonadmitted and Reinsurance Reform Act helped develop contemporary markets for reinsurance and surplus lines coverage, it also invested the federal government with more ability to oversee the insurance industry more broadly.

Daniel A. Rabinowitz, a partner at Herbert Smith Freehills Kramer LLP who advises insurers on regulatory matters, said Dodd-Frank's most important insurance-related provisions concerned new government bodies: the FIO, and the Financial Stability Oversight Council, which designates systemically important financial institutions.

The FSOC had previously designated AIG, Prudential and MetLife as systemically important financial institutions, though MetLife successfully appealed its designation in 2016, and the first Trump administration rescinded AIG and Prudential's designation.

Under the Biden administration, the FIO used its Dodd-Frank remit to monitor the industry for systemic risks to conduct a novel investigation that **ultimately helped link** climate risks in the U.S. to rising insurance costs and lower coverage availability.

Some experts have said the limits of that report — it is restricted only to recent years and doesn't examine climate-related trends in the markets for last-resort insurance, reinsurance, and flood coverage — show a need for more federal insurance oversight.

That idea has been rejected by the NAIC and Republican lawmakers who have intensified their calls for **abolishing the FIO** under the Trump administration.

Still, experts say Dodd-Frank wasn't meant as a wholesale reform of insurance regulation in the United States.

The McCarran Ferguson Act of 1945 delegates insurance regulation to the states, and in the run-up to Dodd Frank, banking regulations aimed at the causes of the financial crisis were the priority.

"At that moment, there wasn't a lot of political support for making insurance more federally regulated in a very meaningful way, but on the margin you did have these ideas that insurance should be included in

federal efforts to prevent financial crises from happening again," Rabinowitz told Law360 Insurance Authority.

Another Frank proposal — an optional federal charter through which insurers could opt for federal regulation — never came to pass. The proposal was similar to the dual-charter system through which banks are regulated, and was supported by life insurers but not carriers in the property and casualty industry.

Rabinowitz added that he doesn't see it as likely that there will be many changes to Dodd-Frank on the insurance side, except perhaps to weaken the law's provisions.

He noted that several years after Dodd-Frank was approved, federal lawmakers passed legislation to ensure that carriers would be subject to state-based capital requirements, as opposed to the capital standards established for banks under Dodd-Frank.

Republican administrations further diminished the prospect of greater federal involvement in insurance, he said, and legislation has been introduced to limit how much latitude the FSOC has in designating systemically important companies.

"There were members of congress on the Democratic side, including Barney Frank, who had advocated a more robust federal role for insurance, but over time they left Congress," Rabinowitz said. "As a result, I think the constituency or the support for federal regulation of insurance really dwindled."

--Editing by Amy Rowe.

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