

## AMICUS BRIEF FACT SHEET

The *amicus brief* filed by Members of Congress in *American Insurance Association et. al. v. Garamendi* refutes arguments that a California insurance statute infringes upon the federal government's jurisdiction over foreign commerce and foreign affairs, asserting that:

- The constitution grants Congress primary authority to regulate commerce and the right to delegate its powers to the States. In matters of insurance, Congress ceded its authority to the states to evaluate the conduct of foreign and domestic companies operating in their jurisdiction (McCarren-Ferguson Act of 1948).
- The Holocaust Victims Insurance Relief Act (HVIRA) is within the scope of California's routine regulatory authority. If the statute were invalidated, it would undermine McCarren-Ferguson and diminish the ability of Congress to share its powers with the states.
- The Executive Agreements negotiated by the United States and European Governments to encourage companies to release Holocaust-era policyholder information voluntarily do not prohibit state efforts and do not have the status of an international treaty that would constitutionally preempt state laws.
- The California law would facilitate the implementation of these Executive Agreements. Congressional oversight hearings have found that the International Commission on Holocaust-Era Insurance Claims (ICHEIC), which was designated by the Executive Agreements to process Holocaust-era claims, has been unable to process more than 80% of its applications because the claimants cannot identify the company holding their assets. (More information on these hearings can be found at [http://www.house.gov/reform/min/maj/maj\\_holocaust.htm](http://www.house.gov/reform/min/maj/maj_holocaust.htm).)