



Congresswoman Melissa Bean (IL-08)

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## **QUESTIONS AND ANSWERS**

### **OPTIONAL FEDERAL CHARTER LEGISLATION: BRINGING THE INSURANCE MARKETPLACE INTO THE 21ST CENTURY**

#### ***How would consumers benefit from optional federal charter legislation?***

Improvements and efficiencies in insurance regulation are crucial to consumers and insurers alike. Millions of individuals and families buy vital products and services from insurers. Unfortunately, today's 50-state patchwork system of regulation invites inefficiencies that harm consumers in three significant ways: the current system delays the introduction of new products, makes them more costly and result in fewer choices – all to the detriment of consumers.

Accordingly, consumers will benefit the most from uniform, efficient regulation because it will lower administrative costs and improve access to new and innovative products nationwide. Moreover, under an OFC, the regulatory system will protect consumers by focusing on market conduct and solvency rather than on unnecessary, lengthy product approvals.

#### ***How are company solvency and consumer protection addressed in the proposal for an optional federal charter?***

Consumer protection and company solvency should be the highest priorities in any system of insurance regulation – and they will be under an OFC system. Our OFC legislation protects consumers regardless of the type of charter chosen by their insurer.

If an insurer elects a federal charter, consumers would be protected through the broad and far-reaching authority of the Director of the Office of National Insurance, who would have extensive regulatory and enforcement powers to ensure strong solvency and market conduct standards. For example:

- The director could revoke, suspend or restrict the license of a national insurer if the director determines that the company is engaging in conduct involving an “undue risk of loss to policyholders.”

- The director also is authorized to take the same action if a national insurer's financial condition becomes questionable, or for violation of law.
- To ensure that consumers are protected in the event of insolvency, the OFC legislation extends to national insurers the requirements that currently exist under the state-based insurance guaranty association mechanism. Specifically, national insurers would be required to become a member of the state guaranty association in each state where the national insurer does business.
- OFC legislation would establish a national insurance guaranty corporation to provide consumer protections and benefits in any state whose guaranty association does not meet specific standards established under the proposed new law.

***Why is OFC legislation the best approach to regulatory reform?***

OFC legislation is the best approach because it will benefit consumers, maximize choice and create a more effective and efficient insurance regulatory system. It is modeled after the current national banking system that allows for dual, exclusive regulation.

Under the legislation, an insurer would seek either a federal or a state charter based on the particular needs and circumstances of its operations. For example, companies doing business in all 50 states might wish to obtain a federal charter, allowing them to deal with one regulator and one set of regulatory standards. Companies doing business in only a few jurisdictions might find the state chartering system to be more practical. Importantly, the goal is a strong, efficient, and effective regulatory system that encompasses strong solvency regulations and strong consumer protections, regardless of whether an insurer holds a federal or state charter.

***If your legislation were enacted, would most insurers choose federal regulation?***

It's too early in the process to know whether most companies would opt for a federal charter. Importantly, insurers will now have a choice where none exists today.

Undoubtedly, companies will choose the system of regulation that best meets the needs of the consumers they serve and their business operations. We anticipate that many U.S. insurers likely would choose to remain state regulated even if a federal option becomes available. It is important to remember that, under any scenario, state regulation will remain a permanent part of the regulatory landscape.

***How does Company/Agent licensing work under an OFC?***

Under the legislation, insurers and producers are afforded the option to choose between state or federal regulation. Federal regulation is in no way mandatory. Furthermore, under this new regulatory approach, companies and agents would only need one license -- in contrast to the current system, which requires one license for every state in which a company or agent does business.

The NIA authorizes the chartering and licensing of National Insurance Agencies and the licensing of federal insurance producers. A National Agency would be authorized to sell insurance for any federally chartered or state licensed insurer. A federally licensed insurance producer could sell insurance in any state on behalf of any National Insurer or a State Insurer. Additionally, a state licensed insurance producer could sell insurance on behalf of any insurer, including National Insurers, operating within the state in which the producer holds a license.

***Why do insurers want regulatory reform?***

Insurers support a more effective and efficient regulatory system – one that moves insurance regulation into the modern era. The insurance marketplace is radically different from what it was even a decade ago. The failure of the insurance regulatory system to keep pace with these changes, particularly with respect to price controls and bringing innovative products to market in a timely fashion, hurts consumers and companies alike. The advent of e-commerce, industry consolidation, globalization, and the accelerating integration of financial services add increased urgency to the need for prompt and comprehensive regulatory reform which will enhance the competitiveness of the insurance sector in today's global economy.