



Congresswoman MELISSA BEAN (IL-08)

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## **FACT SHEET**

### ***National Insurance Consumer Protection Act***

#### National Regulator

Establishes a parallel, national system of regulation and supervision for insurers, insurance agencies, and insurance producers (agents and brokers), similar to the dual banking system. Insurers, agencies and producers can elect national or state regulation, charters and licenses. States would maintain responsibility of regulating state licensed insurers, agencies and producers.

#### The Office of National Insurance

An independent Office of National Insurance (ONI) is created within the Department of the Treasury, similar to the Office of the Comptroller of the Currency (OCC), and its Commissioner would be appointed by the President for a five-year term, subject to the advice and consent of the Senate.

#### National Life Insurers and National Property and Casualty Insurers

NICPA authorizes the National Insurance Commissioner to issue charters for national insurers for life insurance, property and casualty, and reinsurance. The underwriting of life insurance and P/C insurance is separated, but a holding company is permitted to own both a National Life Insurer and a National P/C Insurer.

#### National Agencies and National Insurance Producers

NICPA authorizes the chartering and licensing of national insurance agencies and the licensing of national insurance producers. A national agency would be authorized to sell insurance for any nationally chartered or State licensed insurer. A nationally licensed insurance producer could sell insurance, including surplus lines of 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.

#### Systemic risk

All insurance commissioners (state and national) would be required to share information with a Systemic Risk Regulator, as defined by the Administration. The Systemic Risk Regulator shall make corrective action recommendations to the Commissioner or state commissioner to take action to mitigate or avoid actions taken by an insurer or affiliate that would have serious adverse effects on economic conditions and financial stability. If

action is not taken, the Systemic Risk Regulator with approval of the Coordinating Council for Financial Regulators to circumvent the insurance regulator in emergency circumstances. Finally, if the systemic risk regulator in consultation with the National Insurance Commissioner determines an insurer is systemically important they can require the insurer to be nationally chartered.

#### Coordinating Council for Financial Regulators

Establishes a Coordinating National Council for Financial Regulators based on an expanded version of the President's Working Group for Capital Markets. The council shall serve as a forum for financial regulators to collectively identify and consider issues related to the health and competitiveness of the financial services industry. Chaired by the Secretary of the Treasury, it shall also include the Commissioner of National Insurance and the heads of the Federal Reserve, SEC, CFTC, OTS, FDIC the Comptroller the Currency, and three state regulators appointed by the President.

#### Conversions Between State and National Status

State licensed insurers would be free to convert to a national charter. Likewise, national insurers would be free to convert to a State charter, subject to approval by the Commissioner.

#### Applicable State Law

The activities and operations of nationally chartered and licensed entities would be primarily subject to federal law. However, national insurers and nationally licensed insurance producers would be subject to certain categories of State law. These categories include: (1) State tax laws; (2) State unclaimed property and escheat laws; (3) State laws related to participation in assigned risk plans and other mandatory residual market mechanisms that are designed to make insurance available to those unable to obtain insurance in the voluntary market; (4) State laws that provide for compulsory coverage of workers' compensation or motor vehicle insurance; and (5) Participation in state guaranty funds.

#### Regulatory and Supervisory Powers

The Commissioner has a comprehensive set of supervisory and regulatory powers. National insurers are subject to examinations every two years, and national insurance agencies and national insurance producers are subject to examination in response to a complaint or evidence of a violation of the law or regulations. National insurers, their holding companies, and fellow subsidiaries of their holding companies are subject to risk-based capital standards, investment standards, and asset and liability valuation requirements that are based upon model laws and regulations developed by the National Association of Insurance Commissioners (NAIC). National insurers are subject to an independent audit committee requirement, limitations on dividends, and limitations on transactions with affiliates.

#### Enforcement Powers

The Commissioner is given enforcement powers patterned after those available to the federal banking agencies, permitting him/her to: (1) revoke or suspend a charter or

license; (2) issue a cease and desist order, including an order that mandates affirmative actions, such as the sale of assets or the hiring of new management; (3) remove or suspend individual officers, directors, controlling shareholders, agents and consultants; and (4) impose civil fines of up to \$1 million a day for violations of law or regulations or improper conduct.

#### Consumer Protection

NICPA establishes a Division of Consumer Affairs within the Office of National Insurance. The Division of Consumer Affairs shall establish an office of Consumer Affairs in each state with a direct phone number, and shall establish a national toll-free telephone number and website to act upon questions and complaints. The Commissioner will issue market conduct regulations to prevent unfair methods of competition and unfair and deceptive acts and practices by all covered entities. These regulations shall implement the model laws of the National Association of Insurance Commissioners (NAIC) regarding consumer protection. The Commissioner is empowered to investigate fraudulent insurance acts, which are defined as federal crimes punishable by up to 10 years in prison.

#### Self Regulatory Organizations

The Commissioner is authorized to register and oversee self-regulatory organizations for nationally chartered and licensed insurers, agencies and producers. Key powers of the Commissioner, such as chartering and merger and conversion determinations, may not be delegated to a self-regulatory organization.

#### Guaranty Fund

NICPA establishes a National Insurance Guaranty Corporation, which will assume obligations to policyholders, up to limits based on those set by NAIC model laws, when a national insurer is placed into receivership. The corporation shall be funded by assessments on national insurers, based on line of business as needed post action. National insurers will be required to participate in state guaranty associations for a line of insurance in each State in which such insurer is doing such business. The Director of the National Insurance Guaranty Corporation shall submit a report to Congress within two years on the effectiveness of these provisions.

#### Receiverships for Rehabilitation or Liquidation

The Commissioner may place a national insurer into receivership for rehabilitation or liquidation for a number of circumstances, including the insolvency of a national insurer.