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## **FACT SHEET**

### **OPTIONAL FEDERAL CHARTER LEGISLATION**

#### ***Why OFC Legislation is the Best Way to Modernize the Outdated Insurance Regulatory System***

##### **1. What problems is OFC legislation designed to address?**

Offering insurance companies and agencies an Optional Federal Charter (OFC) as a regulatory alternative responds to the lack of uniformity and efficiency in the current state regulatory system. It also responds to the need to create a mechanism for expediting the speed by which insurance products can be brought to market. OFC legislation would also bring the benefits of market economics to the insurance industry by allowing markets, not various state regulators across the country, to establish rate and product design.

More specifically, OFC legislation addresses the following problems:

##### ***Rate Regulation***

With the exception of Illinois, property/casualty insurance products are subject to varying degrees of government price controls. These price controls harm consumers. For example, Massachusetts, one of the most highly-regulated price control states, has among the highest average auto insurance premiums, the least number of auto insurers and the highest percentage of auto insurance consumers in the residual market. By contrast, Illinois, which, for more than 30 years has allowed the free market to set auto insurance rates, enjoys a large number of insurers willing to write policies in the state, stable auto insurance premiums, and an unpopulated auto insurance residual market. This is not a coincidence.

##### ***Product Innovation and Introduction Barriers***

Nationwide introduction of new insurance products can be a lengthy process, often measured in years, not days. Different jurisdictions generally require prior review of a product before they will allow it to be offered to consumers. Even when each jurisdiction reviews and approves a product for sale, differing state requirements for approval mean that the product's design can be significantly different from one jurisdiction to another. Because of these pre-market requirements, insurance companies are reluctant to allocate

capital to new product design and instead must focus scarce resources on continuing to obtain approval for existing products. This bureaucratic system results in greater costs and fewer options for consumers.

### ***Lack of Uniformity in State Regulation***

The current system of regulation is composed of 51 separate jurisdictions, each distinctly different from the others. Allowing the option of being regulated by one unified federal structure allows insurance entities and the consumers they serve to realize efficiencies that inevitably lead to product savings.

### ***Market Conduct Confusion***

Expensive and duplicative market conduct regulations are a by-product of the multi-jurisdictional state regulatory regime. The General Accountability Office (GAO) has criticized this system for offering consumers little protection from fraud and insolvency, while at the same time raising compliance costs for companies.

### ***National Advocate***

The Office of National Insurance would also provide lawmakers with an expert to turn to on issues affecting policyholders, the health of the insurance industry and the overall economy. At a time when Congress is legislating on policy affecting the insurance industry, policyholders and taxpayers, there is no single federal entity that it can turn to for expertise and guidance.

## **2. What are the Key Elements of Optional Federal Charter Legislation?**

### ***Elimination of Government Rate and Policy Form Controls***

OFC legislation would not impose rate regulation on federally chartered companies nor would it allow the federal regulator to require prior review or any approval of policy forms.

### ***Uniform Set of Rules and Regulations***

OFC legislation would create national uniformity for those insurers wishing to be federally chartered. It would establish a federal insurance office in the Department of Treasury vested with the authority both to charter national companies and agencies and to implement the statute governing their activities. This office, and the single appointed regulator responsible for its activities, would regulate solvency, market conduct and accounting of federally-chartered entities.

### ***Unified Licensing Authority***

The new federal insurance regulator would be solely responsible for licensing federal insurance entities by line of business. Conversely, states would retain the ability to license insurance entities that wished to remain state governed institutions.

### ***State Premium Tax Revenue Remains Unchanged***

Those companies that elect a federal charter would shoulder its costs. Premium taxes would continue to be collected by the states in which the premiums are drawn.

### ***Product Speed to Market***

Products would be regulated on an “informational” basis only – that is, property-casualty insurance policy forms would be available for federal inspection and insurers would provide the federal regulator with an annual list and copy of standard forms. Importantly, there would be no authority to delay or prevent products from getting to market. This approach will empower consumers in the marketplace, not government regulators outside of the marketplace.

### **3. Is There Currently Any Model for This Form of Regulation?**

Yes, the dual banking system is an excellent example. Indeed, the conceptual origins for an Optional Federal Charter for insurance are rooted in the success of the dual banking system. Many of the structural elements of the OFC proposal are drawn from this model.

### ***Charter Choice Has Existed For More Than A Century***

Dual chartering of banks has more than a 140-year history in our nation. It was in 1863, after 80 years of solely state regulation, that the federal government began chartering and regulating banks. The National Bank Act signed that year did not replace the state system, as many people expected. It offered banks the choice of having a state or national charter.

### ***Dual Chartering Fosters Innovation and Better Financial Regulation***

For more than a century, allowing companies to elect a federal or a state charter has incentivized state and federal regulators continually to improve the characteristics of their charters – which, in turn, has led to the current wide array of products and services available to consumers. Providing a choice between regulators promotes efficiency of operations and supervision.