STATEMENT OF

THE AMERICAN COUNCIL OF LIFE INSURERS

BEFORE THE

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE AND GOVERNMENT SPONSORED ENTERPRISES OF THE COMMITTEE ON FINANCIAL SERVICES OF THE UNITED STATES HOUSE OF REPRESENTATIVES

ON
INSURANCE REGULATION AND COMPETITION OF THE 21ST CENTURY: PRODUCT AND FINANCIAL REGULATION

June 11, 2002

Statement Made by

Joseph J. Gasper
Chairman, ACLI
President & Chief Operating Officer
Nationwide Financial Services, Inc.

Mr. Chairman and members of the Subcommittee, my name is Joe Gasper, and I am President and Chief Operating Officer of Nationwide Financial Services in Columbus, Ohio. I am appearing today on behalf of the American Council of Life Insurers, the national trade association representing legal reserve life insurance companies. I am also Chairman of the Board of Directors of the ACLI and chair of the ACLI's CEO task force overseeing the development of an optional federal charter for life insurers.

I appreciate the opportunity to appear before you today to discuss the pressing need to modernize the life insurance regulatory framework in order for it to accommodate the life insurance business of the 21st century. Let me state clearly that the adoption of an optional federal charter now stands as the top priority issue for our business, and for this reason we are pleased that you are holding this timely series of hearings.

We believe the establishment of an optional federal charter is critical to consumers and to the economic stability of the United States as it relates to providing for an aging population who will depend upon the services only life insurance products provide; guaranteed income, long term care, and financial protection. As the Congress faces the Social Security and Medicare challenges in the next fifty years, it will need a high performing life insurance industry to partner with and help shoulder the burden.

As the needs and circumstances of both life insurance companies and their customers have evolved, our system of regulation has failed to keep pace. Life insurance used to be a relatively local business, with the activities of many companies conducted within the boarders of a single state. Indeed, when our state-based regulatory system was established, insurance was not even deemed to be "interstate commerce." Yet today, life insurers are typically national if not global enterprises.

I would like to spend just a few minutes highlighting some of the changes our business has undergone, which will help explain why regulatory modernization, ***in the form of an optional federal charter,*** is nothing short of a survival issue for us.

A generation ago, the average life insurer took in almost 90% of its premiums from the sale of life insurance, compared to only 13% from annuities. Today, those numbers are almost completely reversed, with 70% of premium receipts coming from annuities compared to only 30% from life insurance products. The business mix of my company, Nationwide Life, reflects that trend: last year, 10% of my business come from individual and group life proceeds, 30% from individual annuities and 60% from group annuities.

Today, life insurers administer over $1.8 trillion in retirement plan assets, amounting to over 25% of the private retirement plan assets under management in the U.S.

These fundamental changes in the life insurance industry make several things clear to me:

- The market my company serves is no longer predominantly the life insurance market – it is the retirement security market;
- For that reason, my company is competing head-to-head with non-traditional competitors in that market as we offer products designed to accumulate and protect customers' assets;
- Regulatory fragmentation and inconsistency creates administrative complexity and increases administrative costs, which makes it very difficult for my company to compete effectively with those who benefit from a more consolidated, streamlined, and efficient federal regulatory system; and finally,
- To survive and prosper in this environment, companies must be nimble, and rapid adjustment to changing market and competitive circumstances is a must.

In this intensely competitive market, life insurance company executives like me are doing everything we can within our companies to become more efficient and to more effectively serve our customers. Toward this end, we must offer valuable, cost-efficient products and services. However, there is only so far I can take my company absent a uniform, coordinated, efficient national insurance regulatory system.

I hope to impress upon you how tremendously important regulatory modernization efforts are to the life insurance industry, and what steps we feel are essential to ensure that this modernization takes place in an appropriate and timely manner.

The Current Regulatory Environment: Lack of Uniformity Hampers Multi-State Insurers

A significant impediment for multi-state insurers is the current state-based system's inability to produce, in crucial areas, both uniform standards and consistent application of those standards by the states. I'd like to give you a brief outline of the business and regulatory complexities commonly faced by life insurers under the current system.

Before a company can conduct any activities, it must apply for a license from its "home" or "domestic" state insurance department. A license will be granted if the

company meets the domestic state's legal requirements, including capitalization, investment and other financial requirements, for acting as a life insurer. If the company wishes to do business only in its home state, this one license will be sufficient. However, in order to sell products on a multistate basis, a company must apply for licenses in all the other states in which it seeks to do business. Each additional state may have licensing requirements that deviate from those of the company's home state, and the company will have to comply with all those different requirements notwithstanding the fact that the home state regulator will remain primarily responsible for the insurer's financial oversight.

Once a company has all its state licenses, it can turn its attention to selling policies. To do that, a company must first file each product it wishes to market in a particular state with that state's insurance department for prior approval. A company doing business in all states and the District of Columbia must, for example, file the same policy form 51 different times and wait for 51 different approvals before selling that product in each jurisdiction. And this process must be repeated for each product the insurer wishes to offer. Since these 51 different insurance departments have no uniform standards for the products themselves or for the timeliness of response for filings, a company may receive approval from one or two jurisdictions in 3 months, from another ten jurisdictions in 6 months, and may have to wait 18 months or longer to receive approval from all jurisdictions.

This process is further complicated by the fact that each insurance department may have its own unique "interpretation" of state statutes, even those that are identical to the statues in other jurisdictions. As a result, a company will be required to "tweak" its products in order to comply with each individual department's "interpretation" of what otherwise appeared to be identical law. Since a company has to refile each product after it has been "tweaked," the time lapse from original filing to final approval can very well be double that which was originally expected. And, as a result of the various "tweaks," what started out as a single product may wind up as thirty or more different products.

After a company has received approval to sell its products in a state, it needs a sales force to market those products. Here again we encounter the inefficiencies of the current state system. Each state requires that anyone wishing to act as an insurance agent first be licensed as such under the laws of that state. Each state has its own criteria for granting an agent's license, and this criteria includes differing continuing education requirements once the license is issued. Like companies, insurance agents wishing to work with clients in more than one state must be separately licensed by the insurance departments in each of those states. And, because of the differing state form filing requirements for companies noted above which results in products being "tweaked" for approval in each of the

various jurisdictions, persons granted agent licenses by more than one state will not always have the ability to offer all clients the same products.

After this multitude of licenses and approvals has been secured, a company can begin to sell products nationwide. However, the lack of uniformity in standards and application of laws will continue to be a complicated and costly regulatory burden that the company must constantly manage. The very basic things that any business must do to be successful--such as employing an advertising campaign, providing systems support, maintaining existing products, introducing new products and keeping our sales force educated and updated--are all affected 51 different sets of laws, rules and procedures under the current regulatory structure.

Add to this the fact that states also police actual marketplace activity by subjecting a company to market conduct examinations by the insurance departments of every state in which it is licensed. Even though state market conduct laws nationwide are based on the same NAIC model laws, there is minimal coordination on these exams among the various states. As a result, a company licensed to do business in all 51 jurisdictions is perpetually having states initiate market conduct examinations just as one or more other states are completing theirs, with the cost of each exam being borne by the company. And, because these examinations are largely redundant, the benefits derived relative to the costs incurred are marginal at best.

In sum, these issues result in very real costs in terms of money, time, labor and lost business opportunities attributable to this cumbersome state regulatory system, which places a great competitive burden on individual companies, and on the industry as a whole.

Examples of Regulatory Inefficiency

Let me give you a few real-world examples of how a company like mine that does business nationally is affected by regulatory inefficiency.

Last year, Nationwide developed and filed in throughout the country a very important annuity product for contract owners interested in market timing. Seven months later, approval was still pending in five jurisdictions, four of which were major market states.

You may be saying to yourself, approval in over 40 states in seven months is not that bad. The truth is, to sell this product on a national basis and still comply with individual state requirements, Nationwide had to create **35 separate, state-specific contracts!**

The time and cost associated with complying with these state variations can be enormous. For example, one large state in which we do business adopted standards in a key regulatory area that are entirely different from those of other states. The result: an additional $500,000 in annual, ongoing expenses associated with hiring the staff and developing a compliance system needed to administer this single state variation alone.

Another concern is the impact of the state approval process on product innovation and consumer choice. Over the last few years, we attempted to bring to market an annuity with a long-term care conversion feature. We think this would help address two important retirement savings needs for consumers. We ended up shelving the product for the time being, however, after having it approved in nine (9) states and disapproved in (9) states. Now, you can look at this several ways, but ultimately you have to say nine states were right or nine were wrong. We believe that the nine who disapproved the product were wrong and that ultimately the consumer lost an important innovative financial tool for managing their assets in retirement.

A related example of a product we are currently marketing involves a modified guaranteed annuity. It is a variable annuity product that it is registered with the SEC. It was designed to compete with bond funds offered by mutual fund companies. While this product has been approved in 45 states, it cannot be sold nationally because some individual state requirements – both written and unpublished – either prohibit the contract design or require costly system changes that cannot be justified for a single state.

All this means that it remains extremely difficult and expensive, if not impossible, to develop a product today that can be marketed and advertised nationally. There are simply no compelling reasons why the majority of products and services offered by life insurers should be subjected to standards that vary so considerably from state to state.

ACLI Policy on Improving Regulatory Efficiency and Modernization

The ACLI Board of Directors, after careful consideration and extensive discussion with member life insurance companies, insurance regulators and others, determined to approach improving regulatory efficiency and modernization on two tracks. One is to work with the states and the NAIC to improve a state-based system of regulation. The other is to work with Congress to put in place a federal charter option for life insurers. My remarks today will be confined to the latter, although I would note that the ACLI is, and will remain, fully committed improving our state-based insurance regulatory framework.

A Federal Charter Option: Key Considerations

The ACLI spent approximately a year and a half developing draft legislation providing an optional federal charter for life insurers. This effort involved over 300 ACLI member company representatives and brought to bear their considerable expertise on literally every aspect of life insurance regulation. This draft was widely circulated on Capitol Hill and within the insurance industry and elsewhere for reaction and comment.

The American Insurance Association and the American Bankers Insurance Association also developed draft optional federal charter legislation. The ACLI is working closely with these groups to arrive at a consensus draft, and we are well along in that effort. Under the auspices of the Financial Services Coordinating Council, a broad cross-section of the financial services industry has already agreed on a common set of principles relative to an optional federal charter. A copy of these principles is attached to my statement.

The ACLI staff can respond to questions you may have on the technical underpinnings of our draft legislation or the consensus draft legislation that is nearing completion. I would like to use my time this afternoon to discuss several points regarding the general concept of an optional federal charter.

Congress Should Avoid Incremental Federal Legislation

There have been suggestions that Congress should defer action on optional federal insurance charter legislation and instead see whether an incremental approach to regulatory efficiency might suffice. For example, discrete issues such as product approvals or coordination of market conduct examinations might be addressed along the lines of the NARAB provisions included as part of the Gramm-Leach-Bliley Act.

Quite candidly, Mr. Chairman, I would argue strongly against this approach for a number of reasons. First, the effort of the states and the NAIC to enhance regulatory efficiency is, by its very nature, incremental. The states have identified several priority issues to tackle, and they are developing concepts to deal with them. Achieving some form of overall “national treatment” under a state regulatory regime should be an ultimate goal, but even the states have recognized that it is impractical to seek to achieve that goal in the near term. We simply do not need the states **and** the Congress employing incremental approaches to regulatory modernization.

As noted above, the ACLI Policy on Improving Regulatory Efficiency and Modernization includes working with the states and the NAIC to improve state-based regulation. While we salute the NAIC and others for their efforts toward this end—and in fact we and our member companies are working with them at the state level—the ACLI believes that this effort should not be exclusive of but rather complementary to the pursuit of an optional federal charter for insurers. Here's why.

One of the fundamental values of a federal charter option is that it can achieve uniformity of insurance laws, regulations and interpretations the moment it is put in place. And only Congress can enact legislation that has this broad-based, immediate effect. As I noted at the outset, many life insurers believe regulatory modernization is a survival issue, and in that context the speed with which progressive change takes place is critical. Today's marketplace is intolerant of inefficient competition. And the prospect of having to wait a number of years to see whether incremental federal legislation will even be enacted, and then, if it is, having to wait for some additional period of time to see whether it works is not even remotely appealing to me. Because if the answer turns out to be "no," my business will likely have become irrelevant long before any meaningful steps have been taken. I, for one, am not willing to take that risk.

In my judgment, Congress should not "finesse" this issue by putting a clock on the states either to force them to perform better or to see how much they can accomplish over some set period of time. This approach ultimately sidesteps the responsibility to protect a vital industry and the consumers it serves.

I believe Congress should focus its attention on a global, comprehensive alternative to state insurance regulation expressly crafted to meet the needs of today's national and multinational insurers. I believe an immediate and concerted effort to put in place an optional federal charter is the best course of action for providing needed regulatory solutions for our industry and for providing the states with strong incentive for improving their regulatory structure.

In sum, the ACLI will work with the states to pursue important but incremental improvements to state insurance regulation. But we will look to Congress for the improvements that only Congress can provide in the form of an optional federal insurance charter.

An Optional Federal Charter Is Not an Attack on States' Rights

Insurance is the only segment of the U.S. financial services industry that does not have a significant federal regulatory component. Under the optional federal charter concept being advanced by the ACLI and others, the states would retain a

greater, or at least as significant, a role in insurance regulation as their state regulatory counterparts now have in the banking and securities industries.

The federal charter proposal does not mandate federal insurance regulation of all insurers. Rather, it allows an insurance company the option of seeking a federal charter if company leadership believes that to be more complementary to the company's structure, operations or strategic plan.

It is not an affront to states' rights to seek the elimination of conflicting or inconsistent laws. A principal objective of the ACLI proposal is to reduce the regulatory burden caused by such conflicts and redundancies and to do so by adopting the best state laws and regulations as the applicable federal standards.

A further objective of the federal charter option is to modernize the insurance regulatory framework and, in so doing, make insurers significantly more competitive in the national and global marketplace. Enhancing competition is a sound and legitimate role for Congress and substantially outweighs concerns over any diminution of the regulatory role of the states.

The importance of insurance protection was underscored by the events of September 11, as was the fact that it is in the national interest to have a federal authority with expertise and involvement in the U.S. insurance industry given the industry's significant and substantial importance to the overall financial health of the nation. Establishing an agency to fill this void is not, and should not be characterized as, a diminution of states' rights.

Finally, the concept of an optional federal charter is far less an infringement on states' rights and prerogatives than preemptive federal standards, minimum or otherwise. The latter apply to all insurers and suggest that the states are incapable of dealing with important regulatory matters even as they pertain to state chartered carriers.

An Optional Federal Charter Will Not Foster Regulatory Arbitrage

Some have suggested that the implementation of a federal charter option will lead to regulatory arbitrage and a regulatory "race to the bottom" as companies seek increasingly lax regulation and regulators rush to accommodate. Nothing could be further from the truth.

First and foremost, the ACLI and its member companies are not seeking to migrate to a federal system of insurance regulation that is lax. To the contrary, we are seeking an strong regulator located in the Treasury Department that will administer a comprehensive system of regulation predicated on the "best-of-the-

best" drawn wherever possible from existing state statutes or NAIC model laws. Only where the state system is irreparably broken (e.g., the product approval process) have we sought to create new regulatory concepts.

Second, the notion that adding one more system of regulation on top of the 51 that already exist will somehow give rise to regulatory arbitrage is groundless. Today, companies have the right in virtually all jurisdictions to change their state of domicile – that is, to move to a different state that would have primary responsibility for the company's financial oversight. Consequently, there are 51 opportunities for regulatory arbitrage today.

It is inconceivable that Congress would put in place a federal regulatory option that was not at least as strong as the better - if not the best - state system. How, then, would we be creating some new opportunity for this dreaded "race-to-the-bottom?" What possible harm would come from companies moving to a federal system of regulation that is as strong as, if not stronger than, the one they are leaving?

Inherent in this assertion of possible regulatory arbitrage is the notion that a company executive could wake up one morning and simply decide to flip a company's charter. Quite simply, business does not work that way. Such a change carries with it countless significant consequences and considerations and is not entered into lightly. It is costly, time consuming and initially highly disruptive. The notion of regulatory arbitrage implies that companies would be inclined to move into and out of regulatory systems on a whim or whenever decisions were made or likely to me made that would be adverse to their interests. In the real world, this does not and would not occur.

Insurance Will Not Be Regulated Like Commercial Banking

All the versions of optional federal charter legislation draw at least in part on the dual banking system. Critics have responded by suggesting that it would be inappropriate to regulate insurance companies like commercial banks. This criticism fails to distinguish between the administrative aspects of a federal charter (e.g., the form and location of the regulator, administrative due process, judicial review) and those aspects that involve the actual regulation of companies (e.g., solvency, investments, accounting, market conduct, and so on). It is only with respect to the former that we look to the bank model. The actual regulation of companies, looks almost exclusively to tried and proven concepts of insurance regulation mirroring or predicated on existing state insurance statutes or model laws.

The Federal Charter is Optional

We urge you to keep in mind that all proposals for a federal insurance charter call for that charter to be optional. Companies that do a local business or that for other reasons would prefer to remain exclusively regulated by the states are perfectly free to do so. Relatedly, the ACLI has worked hard to draft a federal charter option that, to the extent reasonably possible, remains "charter neutral." For example, we have avoided building into the federal option advantages (e.g., tax advantages) that companies would be hard pressed to turn their backs on even if they wished to remain state regulated.

While individual motives may vary, our member life insurance companies are strongly united in our desire to modernize our regulatory system so we can regain our competitive footing and effectively serve our customers. Some feel that a federal charter is in the long-term best interest of their company and customers. Others have indicated they would prefer to remain state chartered even if a federal charter were available to them. Like other financial service firms, we believe insurers must have the ability to select the charter that best suits our operations, products, markets and long-term strategies.

An Optional Federal Charter Will Not Disrupt State Premium Tax Revenues

Opponents of an optional federal charter have suggested that if such an option were to become a reality, national insurers would, over time, somehow escape state premium taxes, which constitute a significant source of revenue for all states. This concern is totally unfounded.

As this Subcommittee knows better than most, with the exception of Government Sponsored Enterprises, all for-profit federally chartered financial institutions such as commercial banks, savings banks and thrifts pay state income taxes. For insurers, this state tax obligation takes the form of a state premium tax. There is no precedent for, nor is there any expectation of, exclusion from this state tax obligation. Indeed, all versions of the optional federal charter legislation expressly provide for the continuation of the states' authority to tax national insurers.

There is presently debate in some jurisdictions over whether insurers should pay a state net income tax in lieu of a state premium tax. This debate will continue irrespective of whether there is an optional federal insurance charter. Simply put, state tax revenue is not a material factor in the debate over an optional federal charter.

Consumer Protections Will Not Diminish Under an Optional Federal Charter

We believe insurance consumers will also benefit if an optional federal charter becomes a reality. Strong solvency oversight and strong consumer protections are the cornerstones of any effective insurance regulatory system. The ACLI draft optional federal charter legislation and the consensus version being finalized by the ACLI and other interested groups is built on these cornerstones. In this regard, the draft legislation duplicates the following important aspects of state insurance laws:

- It guarantees that consumers are protected against company insolvencies by extending the current successful state-based guaranty mechanism to national insurers and their policyholders.
- It ensures the financial stability of national insurers by requiring adherence to statutory accounting principles that are more stringent (conservative) than GAAP.
- It duplicates the stringent investment standards currently required under state law.
- It mirrors the strong risk-based capital requirements of state law to ensure companies have adequate liquid assets.
- It duplicates state valuation standards that ensure companies have adequate reserves to pay consumers' claims when they come due.
- It reproduces the requirement that companies submit quarterly financial statements and annual audited financial reports.
- It mirrors the existing nonforfeiture requirements under state law that guarantee all insureds receive minimum benefits under their policies.

In addition, consumers who deal with national insurers may very well enjoy significant added protections and benefits over those afforded by the states. For example, consumers will experience uniform and consistent protections nationwide and will enjoy the same availability of products and services in all 50 states. Consumers will also benefit from uniform rules regarding sales and marketing practices of companies and agents, and for the first time consumer issues of national importance will receive direct attention from a federal regulator.

The Need for an Insurance Regulatory Presence in Washington

While Gramm-Leach-Bliley permits the integration of financial services companies (banks, securities firms and insurance companies), the last time there was major federal legislation affecting the *regulation* of life insurance companies was in 1944 when the McCarran-Ferguson Act was signed into law. Clearly, there

has been a great deal of evolution in the structure, function, products and competitive landscape of the industry since then.

- A limited product line consisting mainly of whole life and term insurance products then has given rise to a wide array of sophisticated financial instruments---universal life, fixed and variable annuities, guaranteed investment contracts and other pension products, and long-term care insurance---many of which compete directly with similar financial products offered by banks and securities firms.

- While there were only a handful of companies doing business on more than just a regional basis then, many life insurers now have national operations, and an increasing number are multi-national financial service providers with facilities all over the globe.

- Life insurance companies have become the major source of long-term capital for our economy. Insurers are not only the principal sources of financing for apartment and office buildings, hotels and shopping centers, but are the largest investor in corporate bonds as well holding over $1.2 trillion in corporate debt. In addition, insurers are major purchasers of local, state and federal bonds used to finance the entire array of government-funded programs and projects, especially roads, schools and other infrastructure needs.

- Life insurers are one of the largest financial intermediaries with assets of over $3.1 trillion.

- As an industry, life insurance companies provide income security for most Americans, with some 163 million individual policies outstanding with a face amount of $ 9.4 trillion, and approximately 369 million group insurance certificates outstanding with a face amount of over $ 6.4 trillion.

- Nearly 73 million Americans own annuities backed by over $1.2 trillion in reserves.

The essential point here is that the life insurance industry is an increasingly significant part of the nation’s economy. Insurers, along with the banking and securities industries, are the triumvirate of essential financial services providers. And yet, despite the striking parallels between the three in terms of their products and their importance to the financial health of the nation, there is no federal mechanism to address arising insurance issues on a broad scale. There is no federal repository of insurance expertise, no agency at the federal level to deal with, or even testify

authoritatively about, critical issues affecting the industry. The recent debate over terrorism insurance coverage served only to underscore the existence of limited insurance expertise and the lack of authority at the federal level.

Over the past few years, it has become more apparent that a critical role of the banking and securities regulators is not just to protect consumers of those industries' financial products, but to ensure that the industries themselves remain healthy and competitive. When the Comptroller of the Currency or the Chairman of the Securities and Exchange Commission appear before Congress to describe issues affecting their respective industries, Members give substantial weight to their views. The simple fact is that insurance is too important an industry to be unrepresented by any federal agency.

To look at it another way, consider what would happen if there was an explosive decline in the stock market, but no SEC, no federal agency with a core of equity market expertise for Congress to turn to for guidance, no federal agency to reassure foreign markets and investors that there was a light at the end of the tunnel. Instead, Congress would be forced to query a succession of state securities regulators to try to piece together information on what went wrong and then try to come up with its own plan to address the problems, all within a very short time frame and under intense pressure. Can we afford to leave the insurance industry and its customers in a similar position?

Conclusion

Life insurers today operate under a patchwork system of state laws and regulations that is not uniform and that is applied and interpreted differently from state to state. The result is a system characterized by delays and unnecessary expenses that harm companies and disadvantage their customers. Failure to reform insurance regulation will pose a severe and ever larger competitive burden that could threaten the viability of the life insurance industry and those it serves in an increasingly competitive global economy.

Mr. Chairman, we encourage you in the strongest terms to work with us to put in place an appropriate federal regulatory option available to insurance companies, insurance agencies, and insurance producers. It is in the best interests of our industry, its customers and our overall economy to do so as expeditiously as possible.

On behalf of the member companies of the American Council of Life Insurers, I would like to conclude by saying "thank you" to you and to the members of your Subcommittee for the opportunity to express our views on this most important subject.

Financial Services Coordinating Council

Representing America's Diversified Financial Services Community

Principles for Federal Insurance Regulation

The Financial Services Coordinating Council was formed by the four principal trade associations representing the major financial sectors of the U.S. economy to address issues of common concern at both the federal and state levels.

Its members are the American Bankers Insurance Association/American Bankers Association, American Council of Life Insurers, American Insurance Association, and Securities Industry Association. These organizations represent thousands of large and small banks, insurance companies, agencies and agents, and securities firms that, taken together, provide financial services to virtually every household in America.

Given the national and international market for insurance products, the time has come to provide a federal option for the chartering and regulation of insurance firms. The lack of regulatory uniformity, coordination and responsiveness in the state-based insurance regulatory system is unnecessarily costly and burdensome and has resulted in negative competitive implications for insurance companies, insurance agencies, and their customers. The securities and banking industries have long been subject to regulation by the Federal government, which is designed to protect the interests of consumers, regardless of where a product is sold or where the consumer resides. The federal chartering and regulation of insurance firms would extend uniform regulation to all areas of insurance, particularly with respect to products, producers, solvency, and market conduct protections to consumers.

Optional federal chartering and regulation should be based upon the following principles:

The Federal Charter

- *National Treatment* --- Insurers must have the option of obtaining a single charter that would allow them to do business in all jurisdictions.
- *Universal* --- The federal charter must accommodate all lines of insurance and must be equally available to all insurers, regardless of corporate form (stock, mutual or fraternal) or size, and must provide for the federal

chartering or licensing of insurance producers (agents and brokers) and insurance agencies.

- *Convertible* --- Insurers must have an unqualified right to convert both from a state to a federal charter and from a federal charter to a state charter, and a holding company must be permitted to control both a federally chartered and a state chartered insurer.

- *Specialized* --- The federal charter must take into account the inherent differences among different lines of insurance – life, health and property-casualty.

- *Dynamic* --- The federal charter must permit federal insurers to respond quickly to changes in the market place, consumer demands and technology.

The Federal Regulator

- *Single Regulator* --- The federal insurance regulatory authority should be a discrete bureau within the Treasury Department headed by an individual appointed by the President and confirmed by the Senate for a fixed term (on a par with the OCC and OTS).

Federal Regulation and Supervision

- *Financial/Solvency Regulation* --- A federal insurer must be subject to strong solvency regulation and supervision (e.g., capital and reserve levels, investments and accounting).

- *Regulation of Insurance and Forms* --- Federal law should establish an expeditious process for addressing policy forms, which encourages innovation and does not delay the development and marketing of new products. Federal law should rely upon competitive market forces to establish premium rates, rather than government price controls.

- *The Costs of Regulation* --- Federal insurers and producers, not taxpayers, should be responsible for the ongoing costs of federal supervision and regulation.

Consumer Protections

- *Market Conduct Standards* --- Federal insurers and producers must be subject to strong market conduct regulation and supervision.

- *Guarantee* --- Federal insurers and their customers must enjoy the same high level of protection in the event of an insolvency as state chartered insurers and their customers, and the existing insurance guaranty mechanisms must remain in place and accommodate the participation of federal insurers.

- *Antitrust* --- While exclusions from federal anti-trust laws provided by the McCarran-Ferguson Act should not apply to federally chartered insurers, limited safe harbors should be provided for legitimate joint activities.

- *Special Needs* --- Federal insurers should participate in state programs designed to meet the insurance needs of consumers who cannot obtain insurance. Federal insurers also should be free but not required to continue existing investment programs benefiting low and moderate income communities.

Relationship to State Regulation

- *Optional* --- The federal charter must be optional since the availability of a viable state insurance regulatory system is integral to the dual chartering concept.

- *Exclusive Regulation* --- A federal insurer or producer must be regulated exclusively by the federal insurance regulator in all areas defined by statute as being within the jurisdiction of the federal regulator. Conversely, state chartered insurers and producers must be regulated exclusively by state regulators.

- *Taxes* --- Federally chartered insurers must remain subject to the authority of the states to impose premium or corporate income taxes. Choice of charter should not affect the overall state and federal corporate or policyholder tax burdens of individual insurers.

- *Fair Treatment* --- States must be prohibited from discriminating against federal insurers and producers.