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OFFICE OF
INSURANCE COMMISSIONER

September 30, 2010

Investment Modernization Interested Parties:

At our dialogue on July 23, 2010, you provided several comments on Draft 2.0 of our proposed bill. At that time both Regence and Premera had provided written comments, and I agreed to provide responses to those comments.

Regence comment on Sec. 3(1)(b) – Discretionary Power
I believe it is appropriate to include a specific trigger for the Commissioner's permissive authority to issue an order adjusting an insurer's minimum financial security benchmark. In Draft 3.0 I have included language similar to that suggested by Regence, but setting the trigger at 3.5 times the authorized control level (ACL). The reason I chose that multiplier for the ACL is that a company action level event will have occurred when the insurer declines to 3 times ACL with a negative trend. I believe that greater consumer protections and an enhanced ability to preserve the insurer will occur if minimum financial security benchmarks are considered and possibly adjusted before reaching a company action level event.

Regence comment on Sec. 8(ii)(c) – Investment in Subsidiaries
This suggestion appears to be a correction of a drafting mistake in Draft 2.0. I have changed Draft 3.0 to accept this change.

Regence comment on Sec. 8(1)(c)(ii) – Limit on Subsidiary Investments
This suggestion proposes excluding investment in subsidiary insurers, health maintenance organizations, and health care service contractors from the limitation on investments in Subsidiaries. The premise of the suggestion seems to be that since these subsidiaries are appropriately regulated, there is no significant investment risk.

I see the issue as a liquidity risk. As the domestic regulator of a subsidiary insurer, I am not sure I would be inclined to allow the subsidiary to be raided or sold to address a parent's liquidity issues. Even if I were inclined to allow that kind of activity, I don't believe the regulatory process would allow action that could be completed in a timeframe to effectively address the parent's liquidity issues.

At this time, I am not inclined to modify Draft 3.0 to address this comment.

Premera comment on Sec. 7 – Authorized Classes of Investments
I appreciate this suggestion intended to clarify language in the draft bill. I believe that the suggested change effectively changes the meaning of original language by removing the requirement of Sec. 7(12) that the investments be not otherwise prohibited.

In Draft 3.0 I made a minor change in an effort for clarity, but did not adopt most of the suggested change.

Subsequent to July 23, 2010, we received by email from PEMCO requests for clarification of several matters. The request for clarification has been posted to our website, and I offer these responses which are numbered to correspond to the request for clarification:

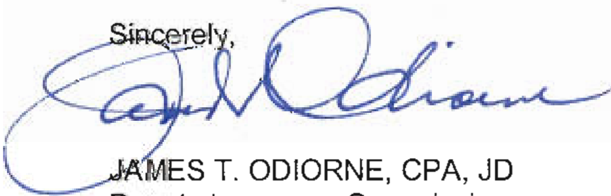
1. I cannot identify the inconsistency. Additional input will be appreciated.
2. I agree that Sec. 11(2) operates as a "grandfather" clause and allows insurers to continue holding assets that qualified under chapter 48.13 RCW prior to the effective date of the proposed modernization bill in satisfaction of the requirements of Sec. 11 of the bill.
3. I believe that Sec. 8(7) effectively prohibits for all purposes the acquisition of Sec. 7(3) assets with a loan-to-value ratio of greater than 80% if the asset is not guaranteed or insured.
4. I believe that the language of Sec. 8(1) is directed at application of Sec. 11 and is not an overall prohibition.
   a. Investment above the 10% limitation of Sec. 8(1)(c)(i) may be counted as an authorized investment under Sec. 7(12) to the extent that the limits of Sec. 7(12) have not been exceeded. Draft 3.0 contains a clarifying language change.
   b. Investment above the limits of Sec. 8(1)(c)(ii) may be counted as an authorized investment under Sec. 7(12) to the extent that the limits of Sec. 7(12) have not been exceeded. Draft 3.0 contains a clarifying language change.
   c. I do not believe that Sec. 8(1)(c)(ii) is ineffective or in conflict with Sec. 8(1)(c). Sec. 8(1)(c)(ii) merely constrains the investment discretion in Sec. 8(1)(c).

This communication addresses the written comments and requests for clarification received immediately prior to or after our July 23, 2010 dialogue. Based on my evaluation of the comments and requests for clarification, I have made some changes to our draft proposal. Differences between Draft 2.0 and Draft 3.0 have been hi-lited. All other changes originated prior to Draft 2.0.

My plan is to submit Draft 3.0 to Commissioner Kreidler for his approval and inclusion in his 2011 legislative agenda. We will still appreciate your comments and suggestions as we strive for a consensus bill.

Thank you all for your help and cooperation in the process so far.

Sincerely,



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