



**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**

**THE NEED FOR INSURANCE REGULATORY REFORM**

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Statement Made by

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Chairman of the Board & Chief Executive Officer  
AXA Equitable

Mr. Chairman and members of the Subcommittee, my name is Christopher Condron. I am CEO of AXA Financial, Inc. and Chairman and CEO of its principal insurance operating subsidiary, AXA Equitable Life Insurance Company. AXA Equitable was formed in 1859 as The Equitable Life Assurance Society of the United States. We became a member of the global AXA Group 15 years ago. With operations in nearly 50 countries around the world, the AXA Group is one of the world's largest diversified insurance companies.

I am appearing today on behalf of the American Council of Life Insurers, the principal trade association for U.S. life insurance companies. The ACLI's 373 member companies account for approximately 93% of the industry's total assets, 91% of the industry's domestic life insurance premiums and 95% of its domestic annuity considerations.

I appreciate the opportunity to appear before you today to discuss the critical need to substantially overhaul and modernize the insurance regulatory system in the United States. Indeed, I firmly believe that for the life insurance business to remain viable and serve the needs of the American public effectively, our system of regulation must become far more efficient and responsive to the needs and circumstances of a 21<sup>st</sup> century global business.

I think I bring a distinctive perspective to this issue. Prior to joining AXA Equitable in 2001, I was President and Chief Operating Officer of Mellon Bank Corp. (now Bank of New York/Mellon) and CEO of The Dreyfus Corporation, BNY/Mellon's mutual fund subsidiary. National banks like BNY/Mellon, and mutual fund companies like Dreyfus, are principally regulated at the federal level. The same holds true for most broker dealers.

That experience leaves me unsurprised that among the most vocal supporters of insurance regulatory modernization are many financial institutions that already enjoy the benefits of federal regulation. For example, achieving insurance regulatory modernization through the enactment of optional federal charter legislation is a key priority of the Financial Services Roundtable of which I am Vice Chairman – an organization a majority of whose membership is comprised of federally chartered banks and national and regional securities firms. Many of these institutions, of course, are keenly interested because they are also in the insurance business. For example, a large percentage of banks and securities brokerage firms distribute insurance products – and labor under the inefficiencies of disparate and complex state-specific rules relating to agent licensing. Those rules, which impose different qualification, registration and continuing education requirements for each state in which an agent seeks to do business, make it difficult to serve an increasing mobile society. As someone who started his career as a salesman in the retail financial services business, I can relate to the challenge of having to endure new licensing and continuing education burdens simply because a long-time client moves to a state in which the agent is not already licensed – which is also the key reason why so many producers favor a federal regulatory option.

I would suggest, however, that the real reason why so many federally regulated financial institutions support insurance regulatory reform has relatively little to do with corporate self-interest. I believe that most financial services CEOs these days see the far bigger *national* interest in addressing the outmoded state-based insurance regulatory system. For them, I would submit that this is not a competitive issue at all. Instead, I believe that they recognize far better than most the criticality of assuring that we have an efficient and effective life insurance industry in the United States.

### **The Essence of That National Interest – Encouraging Innovation**

One of the most significant benefits of insurance regulatory reform will be the elimination of substantial barriers to innovation – particularly as they relate to the ability of the insurance industry to leverage its unique franchise to help address the looming retirement security crisis as some 77 million baby boomers near retirement.

Changing demographics and other related factors have given rise to a true retirement security crisis in this country. Medical advances continue to extend life expectancies and lengthen time spent in retirement. Medical costs are increasing, particularly for retirees, while retiree health coverage continues to decline. Employers are discontinuing defined benefit pension plans, and employees covered by these plans are leaving earlier with lower benefits. Rising retirement age thresholds and lower rates of benefit increases mean Social Security will replace a significantly lower percentage of pre-retirement income for future retirees. Lower interest rates mean fixed income returns are lower. Taken together, these factors lead to the inescapable conclusion – borne out by numerous studies – that one of the biggest challenges people will face in retirement is outliving their assets.

Life insurers provide an array of products and services that benefit Americans in all stages of life, including life insurance, annuities and other retirement savings plans, disability income insurance and long term care insurance. Currently, there are over 375 million life insurance policies in force, providing Americans with over \$19 trillion in financial protection. In addition, Americans have saved \$1.7 trillion towards their retirement by investing through our annuity products.

We are in a unique position to help America deal with the retirement security crisis. Significantly, life insurers – and only life insurers – can convert retirement savings into a guaranteed lifetime stream of income. That capability may well be the most potent tool that the private sector possesses to address the retirement savings challenges this nation faces.

Over the last decade, insurers have developed new and creative ways to leverage this capability to help Americans save for retirement and create sustainable, secure income streams during retirement. I am proud that AXA Equitable was a pioneer in that effort. Ten years ago, we transformed the basic variable annuity – a product in which investors took 100% of the risk of loss on their investments – by adding a guarantee feature that substantially shifted much of the risk of investing in equities from our customers to us.

Not only does this product encourage investors to pursue a more growth-oriented investment strategy to and through retirement, it gives them the confidence to stay the course during market downturns – thus significantly reducing the destructive “buy high, sell low” behavior to which too many investors succumb. In so doing, it offers them the potential to earn the higher long-term investment results that, history teaches, equity markets have delivered in most cases.

Ours was a true “category changing” innovation. Since we introduced this breakthrough design – the first of what have come to be known as “guaranteed living benefits” – others have offered their own versions and variations. Collectively, products with these features currently account for the large majority of variable annuity sales, which are projected to approximate \$175 billion in 2007.

In order to get this product to market, however, we had to confront and overcome a regulatory system that was – and continues to be – resistant to innovation. Indeed, we are working on even more ambitious ideas – ideas that have the potential to have a far greater impact on the retirement savings challenges we face. However, our experience to date suggests that they will not find support from our state regulators.

If you take nothing else from my testimony today, please let it be this: the most important thing that you can do to stimulate further breakthrough innovation from the life insurance industry is to address the regulatory barriers that so frustrate innovation.

### **How the Current Regulatory System Frustrates Innovation**

To encourage innovation, it is neither necessary nor desirable for a regulatory system to have lax standards. Indeed, we do not think the insurance industry would be advantaged by a weak regulatory system. We do submit, however, that to encourage innovation it is important for there to be uniform standards, consistently applied and efficiently administered, with a minimum of duplication or redundancy. The current state regulatory system meets none of these criteria.

Life insurers today operate under a patchwork system of state laws and regulations that lack uniformity and are applied and interpreted differently from state to state. The result is a system in which insurers must navigate a multiplicity of different regulatory gauntlets in parallel, each subject to its own timetable, in order to bring a product to market nationally. While they say that little is certain in life, for insurers this much is certain: there is no such thing as a single product for a national market and getting products approved on a national basis is extremely time consuming. The reality of the state regulatory system is that, inevitably, insurers will wind-up with multiple variations of any product they try to bring to a multi-state market, due to differing state-mandated changes. Moreover, in contrast to the more centralized, streamlined regulatory systems of the banking and securities businesses that allow them to get products to the national marketplace quickly – often within 30 to 90 days – it can take up to two years or more for life insurers to bring a product to market nationwide.

And the product approval process is not the only impediment to innovation. Virtually every aspect of our business is subject to disparate laws, disparate regulations and disparate interpretations of these laws and regulations that stifle innovation. Concerns in this regard include, among other things,

- the capital and reserving standards we must meet,
- the rules by which we administer our products,
- our sales practices
- and the qualifications and licensing standards for people who sell our products

The result fractionalizes what, for so many companies, is a national business – depriving insurers of the scale and speed to market that are so necessary to sustaining innovation. As but one example, the intractability of regulators in some states and the bureaucracy in others means that there are states in which AXA Equitable is still selling a product that is three generations older than what we are selling in most of the rest of the country.

Not surprisingly, the large number of product variations creates significant challenges for our operations and customer service areas that must manage and administer these multiple versions over the life of the contract – which in our business often means the *lifetime of the customer*. It also creates enormous headaches and inefficiencies for the more than 600 distribution companies and the more than 90,000 individuals have been appointed by us to sell our products. That’s one reason why so many producers have come out in favor of reforming insurance regulation. Thousands of them have joined a grassroots organization – Agents for Change – whose mission is to give voice to their frustrations with the current system. The National Association of Independent Life Brokerage Agencies (“NAILBA”) has endorsed the concept of federal regulation and the Association of Advanced Life Underwriters (“AALU”) supports the concept of optional federal charter legislation which provides life insurance producers and carriers with the ability to choose federal or state licensing and regulation. Among the most significant benefits that producers will realize in a federal regulatory system is the opportunity to get a single national license, with a singular qualification, renewal and continuing education requirements.

While most aspects of insurance regulation are state specific, state boundaries do not constrain all aspects of state regulation. Paradoxically, in some cases, state regulation vests extraordinary extraterritorial reach in an insurer’s home state regulator. For example, a home state regulator can determine capital requirements for business done nationwide. This, of course, creates the potential for radically disparate protections of consumers *within the same state* – and since capital is typically among an insurer’s biggest costs, *radically different costs of doing business* for insurers depending on their state of domicile.

It goes without saying that, in addition to frustrating innovation, the burdens and costs of state regulation leave the insurance industry at a serious competitive disadvantage relative to other segments of the financial industry. Far more than ever before, life insurers find themselves in direct competition with brokerages, mutual funds, and

commercial banks, particularly as providers of investment and retirement security products. Overwhelmingly, brokers, fund companies and banks benefit from much more efficient systems of regulation, often with a single, principal federal regulator. Without question, the regulatory efficiencies they enjoy translate into very real marketplace advantages.

## **Solutions**

The ACLI carefully considered various ways to address the issue of regulatory reform, and focused in particular on four possibilities: improving the state-based system; regulating by the state of domicile; establishing federal (national) standards that would be administered by the states; and the creation of a federal charter option. Ultimately, the industry settled on a dual-track approach to regulatory reform under which we continue to work with the states to make a state-based regulatory system operate more efficiently and at the same time push for an optional federal charter. We believe the dual banking system provides an excellent template for a regulatory system that ensures company solvency and consumer protection, promotes efficiency and accommodates the operational needs of a diverse industry. The availability of a federal option would encourage state regulators to be more responsive and would establish a federal insurance regulator as a peer to other financial regulators in the critical Washington arena. For insurance companies doing business on a national basis, the ability to interact with one regulator rather than 51 would dramatically reduce what has increasingly become a logistical and administrative nightmare.

At the same time, we are working diligently with the states and the National Association of Insurance Commissioners to modernize state insurance regulation. Even with a federal chartering option, there will undoubtedly be a significant number of insurers that will wish to remain state regulated, albeit under a more modern and efficient system. Toward this end, the ACLI is actively engaged with, and fully supportive of, the NAIC's initiative to advance an interstate compact approach to provide for a uniform mechanism under which life insurance company product filings and approvals can take place. While the states deserve enormous credit for making the interstate compact a reality, as of today many of the most populous states are not participants, materially reducing its potential utility. And it is very important to keep in mind that as successful as the compact may ultimately prove to be, it addresses only one of the many aspects of state regulation that suffers from a lack of uniformity.

## **The Difficulty in Addressing Critical Issues Absent a Federal Charter Option**

In just the last year, Congress has addressed a number of issues involving the life insurance business that have proved difficult to resolve absent a federal insurance regulator. Should a federal charter option become a reality, current issues like military sales, sales to seniors, data security, privacy, travel underwriting and the ability to combine annuities with long term care features would be much easier to solve on a national basis. Recent congressional discussion on each of these significant consumer

issues has demonstrated the difficulty of imposing federal solutions on a state regulated business.

The combination of annuities and long term care is an excellent example of this problem. Just last year in landmark legislation passed by Congress, tax barriers were removed to help the life insurance industry make available a product that will be extremely beneficial to consumers. Yet due to the widely disparate laws that exist state to state, there continue to be significant obstacles to our ability to get such combination products to the people who need them.

Industry initiatives designed to benefit consumers have been similarly hindered by the difficulty of addressing issues on a national basis. The ACLI's member companies have recognized that the disclosure we provide potential purchasers of annuities could be significantly enhanced. The industry developed concise disclosure templates for annuities, field tested them with consumers with extremely favorable results, and then approached state regulators asking that they be embedded in state regulation and not merely accepted as a form of voluntary best practice. While state insurance regulators have viewed these templates favorably and agree with the need for enhanced annuity disclosure, we can only implement this beneficial disclosure by going to each state and working through their individual regulatory process. This will be a multi-year effort, and even then we may not be able to get all states to embrace this uniform approach to improved disclosure.

### **Consumer Benefits and Protections**

Those resisting the advent of a federal chartering option assert that the optional federal charter would be fundamentally inconsistent with the best interests of consumers. When the facts are carefully considered, nothing could be further from the truth.

The life insurance industry advocates a federal charter option built around strong solvency and strong market conduct oversight, patterned after the best state statutes or model laws in existence today. This would necessarily include robust, uniform regulation in the areas of capital, reserves, nonforfeiture standards, accounting and investments, among other things. And consumers would enjoy a high level of protection under this system regardless of where they live, or where their insurer is domiciled or where a product is purchased. To be clear, anything less is not in the best interests of life insurance companies or their customers.

An optional federal charter would offer all customers access to the same products; uniform rules regarding sales and marketing practices of companies and agents; strict, frequent and consistent market conduct and financial examination of national insurers; and the opportunity to continue to work with a trusted insurance agent if the consumer moves from one state to another where today the agent may not be licensed.

Moreover, an optional federal charter holds the promise of significant cost savings. Two recent studies have quantified those savings. As noted in these studies, the life insurance

market in the U.S. is mature and price competition is intense. In such circumstances, it is entirely reasonable to expect that a meaningful portion of those savings would be realized by consumers in the form of lower premiums.

The first study, conducted by Steven W. Pottier of the University of Georgia, focuses on potential cost savings to life insurers. It finds that life insurance costs could be reduced by an estimated \$5.7 billion annually if insurance companies functioned under a single regulator system as opposed to the current system of multiple regulators.

The second study, by Laureen Regan of Temple University, focuses on the cost savings that could be realized by insurance producers (agents) under a federal charter option. The study estimates that the savings in producer licensing associated with moving to an optional federal charter from the current system of exclusive state regulation could range from \$268 million to \$377 million annually. In addition, an optional federal charter would benefit producers by creating uniform requirements for pre-licensing and continuing education.

### **Misperceptions Regarding an Optional Federal Charter**

**Regulatory Arbitrage** - Some have suggested that the implementation of a federal charter option would lead to regulatory arbitrage as companies seek increasingly lax regulation and regulators rush to accommodate. However, we are highly confident that Congress would be careful to assure that any federal regulatory option was at least on a par with the strongest state systems. Indeed, the industry is seeking uniform regulation, not weak regulation. Moreover, the potential for regulatory arbitrage already exists in the current state-based system. Today, insurers 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. We fail to see how adding the option of a strong federal regulator would increase the potential that exists today. Finally, we submit that these dire predictions find no support in the experience of the dual charter bank regulatory system.

**State Premium Tax Revenue** - 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 the payment of state premium taxes, which constitute a significant source of revenue for all states. This concern is 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. Insurers’ state tax obligations predominantly take 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 introduced to date expressly provide for the continuation of the states’ authority to tax national insurers.

**Cost** – Skeptics of the optional federal charter have asserted that this initiative will result in some huge bureaucracy that will cost taxpayers untold millions. However, the life

insurance industry has made clear from the outset that it is asking for a new federal regulator that would be funded exclusively through filing and user fees. Moreover, the industry has recommended that the initial costs of the regulator be covered through a loan that the industry would pay back over time. In sum, the industry and not taxpayers would pay for a new federal insurance regulator.

### **The Importance of the Life Insurance Industry from an Economic Standpoint**

The need for comprehensive regulatory reform should also be considered from an economic standpoint, since the life insurance industry plays a key role in capital formation and is a significant component of the overall U.S. economy.

The long-term commitments and investments of the life insurance industry place it as one of the largest investors in the U.S. economy assisting in economic growth. In managing these obligations, the life insurance industry has invested \$4.8 trillion in the financial markets, representing 9% of the capital supplied to the U.S. economy by the financial services industry, or 4% of the total capital in the **entire** U.S. economy. Life insurers are one of the largest holders of long-term, fixed rate commercial mortgages in the U.S. These long-term financial commitments are generally ten years and longer in maturity, much longer than commitments made by other financial intermediaries. In addition, our most recent figures indicate that life insurers invested \$225 billion in new net funds in the nation's economy, an amount equal to about 30% of the net new funds saved by persons in the U.S. Fifty-seven percent of the industry's assets, or \$2.7 trillion, are held in long-term bonds, mortgages, real estate, and other long-term investments. This includes: \$523 billion invested in federal, state and local government bonds, helping to fund urban revitalization, public housing, hospitals, schools, airports, roads and bridges; \$314 billion invested in mortgage loans on real estate financing for homes, family farms and offices; \$1.8 trillion invested in long-term U.S. corporate bonds; and \$1.5 billion invested in corporate stocks. The importance of the continued growth and vitality of the life insurance industry to Americans cannot be overstated.

### **International Considerations Strengthen the Case for Federal Regulation**

The absence of a federal insurance regulator leaves the U.S. insurance industry at a distinct disadvantage in a variety of ways. For example, foreign markets offer additional growth opportunities. Life insurance premiums in the U.S. grew by only about 4% in 2006. In contrast, premium growth in India was 60% in 2006; in Africa, 22%; in Central and Eastern Europe, 19%; in Latin America, 14%; and in China life insurance premiums grew over 9% in 2006. Yet, when U.S. life insurers try to expand into these and other growing markets they are often rebuffed. The reason is that, from the European Union to China, other countries perceive that our current insurance regulatory structure discriminates against foreign companies and/or is so complex, inefficient, and costly as to be a de facto trade barrier.

There may be merit to these concerns. For example, over 20 states will not license insurance companies owned by foreign governments. Moreover, states have widely

varying requirements about who can serve on a life insurer's board of directors, based on the nominee's residency, citizenship and other attributes – all of which can pose particular problems for foreign owners. Indeed the very terms the states use to describe a company based overseas, 'alien' (*i.e.*, subsidiaries or branches of non-U.S. insurers) versus 'foreign' (*i.e.*, subsidiaries or branches of another U.S. state insurers) are viewed as politically charged and discriminatory. And recently, the European Commission has expressed frustration that may force it “to explore other routes to ensure that EU reinsurers receive a fair treatment” in connection with states' requirements that even highly rated European insurers deposit liquid assets in the U.S. in an amount equal to their gross U.S. liabilities as a precondition to insuring U.S. life insurers.

In addition, the absence of a federal insurance supervisory authority operationally impedes the ability of U.S. life insurers to compete overseas. For example, neither U.S. state governments nor the NAIC have the constitutional authority to enter international agreements of mutual recognition or joint supervision on behalf of the U.S. Similarly, the U.S. has no national insurance supervisor with the legal mandate to represent the government or the interests of the industry in responding to crisis or maintaining stability. We are also unrepresented in the growing collaborative interactions of global financial services regulators generally covering broad economic, fiscal, regulatory, and trade matters – leaving us at a distinct competitive disadvantage.

## **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 duplication, inconsistency, and inefficiency. While the most obvious effects of this system are the delays in getting products to market and the unnecessary expenses that result from redundancy and inconsistency, the most pernicious effect is that it frustrates innovation. As the only segment of the financial services industry that can guarantee income for life, insurers have a unique platform from which to help address the looming retirement security crisis facing this nation. Failure to reform insurance regulation prevents insurers from optimizing the value of their unique capabilities. Moreover, it leaves insurers in an increasingly untenable competitive position relative to other domestic and international financial services companies.

Mr. Chairman, for the benefit of our country, our customers and our industry we urge you to work with us on an expedited basis to put in place an appropriate federal regulatory option.