February 11, 2009

The Honorable Timothy F. Geithner
Secretary of Treasury
U.S. Department of Treasury
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Dear Secretary Geithner:

Recently, a few Members of Congress wrote you urging the creation of an office or position responsible for insurance oversight in the Department of Treasury. The request is couched as part of a regulatory overhaul of the financial markets. While the need for a financial regulatory overhaul is clear, it should be not used as a stalking horse for insurance deregulation. Allowing insurers to evade state regulation is, without a doubt, the goal of Representatives Bean (D-IL), Royce (R-CA), and their colleagues in urging Treasury to intervene in the insurance market. The insurance industry knows well that the movement toward federal oversight of insurance is necessarily a deregulatory move, especially with regard to the stringent and effective rules of California's system of insurance regulation. Escaping the rigor and accountability of California is the Holy Grail of the insurance lobby.

Supporters of a Treasury expansion into insurance oversight say the federal government should be collecting data and building expertise on the national insurance marketplace. We do not disagree on that point; existing agencies are empowered to collect such information and we would welcome lifting the congressional exemption of the insurance industry from Federal Trade Commission oversight. But the proposed "interim step" the Congress Members urge in order to "fill a [federal] void on insurance oversight" aims at stripping states of insurance oversight authority.

Supporters of this plan are not seeking greater federal regulation. To the contrary, their purpose is to allow insurers to escape oversight. Proponents have made no secret of the fact that they consider an insurance office at Treasury to be a vehicle for limiting the role of the states in the insurance marketplace. Representative Royce expressed this unabashedly in describing related legislation last year: "I believe it would move us one step closer to establishing an optional federal charter for insurance which would provide a much needed regulatory alternative to the tangled bureaucratic web of state-based insurance regulators."

Insurance regulation should not be made a matter of choice for companies. Allowing insurers to select which standards apply to them will result in the negation of hard-won consumer rights laws and destroy the state-based oversight that set insurance products and companies apart from much of the financial sector during this period of extraordinary upheaval.

Consumers in every state will feel the impact if state insurance regulation is preempted. In Consumer Watchdog's home state of California, consumers will be especially hard hit. Over the last twenty years, Proposition 103, a ballot initiative approved by California voters in 1988, has protected consumers from insurance company rate gouging, illegal surcharges and other abusive practices.

Proposition 103 imposed stringent regulation of the insurance industry, required an ongoing 20% discount for good drivers, required companies to base auto insurance premiums primarily on driving record rather than ZIP Code and prohibited anticompetitive practices that federal law allowed decades ago.

An April 2008 state-by-state study of auto insurance regulation by the Consumer Federation of America found that California drivers have saved $62 billion since Proposition 103's passage. The Federation named California one of the most competitive and profitable markets in the country, yet with the slowest-growing automobile insurance premiums in the nation. All these gains could be lost for consumers if insurers are able to opt out of strong state regulation for a lower federal standard, or if federal standards preempt state oversight entirely.

Those who seek an optional federal charter and insurance deregulation are trying to exploit the failures of AIG's unregulated financial derivatives subsidiary as justification for releasing insurance companies from successful state rules that have protected policyholders in AIG's traditional insurance subsidiaries. Representatives Bean and Royce cite the failure of AIG, "once the largest U.S. insurance company," as proof of the need for federal insurance oversight. In fact, the company's insurance units remained generally healthy in a reeling economy because of strong state regulation, even as its federally overseen holding company nearly destroyed the conglomerate. It is undeniable that the state-regulated insurance sector – and American policyholders as a result – has fared far better than the federally-regulated institutions that have come hat-in-hand for bailouts after facilitating the economic downturn. If anything, the AIG affair shows state regulation works and should be expanded to encompass historically unregulated products such as the credit default swaps previously under the purview of federal banking regulators.

These are tough times for Americans who work hard and play by the rules. The federal government's economic and regulatory policies – beginning with the deregulation of the financial sector in 1999 through the Gramm-Leach-Bliley Financial Services Modernization Act and continuing with the Bush Administration's enthusiastic support for speculation and arcane financial instruments – have crippled our economy and

jeopardized our financial security. In this context, it is bewildering to contemplate unleashing a deregulated insurance industry on beleaguered consumers.

Insurance regulation should remain the purview of state regulators, lawmakers and courts. If a financial reform package includes a Treasury position dedicated to insurance, it should be explicitly prohibited from preempting, or supplanting, state regulatory authority in any way. With all that must be done now to rescue our financial system and repair the damage, the last thing Treasury or Congress should do is make a radical departure from a decades-long policy of deference to state insurance regulation.

Thank you for considering our views.

Sincerely,

Douglas Heller
Executive Director

Carmen Balber
Washington, D.C. Director

cc President Barack Obama
Assistant to the President for Legislative Affairs Phil Schiliro
Speaker of the House Nancy Pelosi
Representative Melissa Bean
Representative Ed Royce
Representative Andre Carson
Representative Dennis Moore
Representative Michael Castle
Representative John Adler
Representative John Campbell
Representative Barney Frank
Senate Majority Leader Harry Reid
Senator Chris Dodd