



National Association of Health Underwriters

America's Benefits Specialists

September 10, 2008

The Honorable Christopher Cox
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C., 20549-1090

RE: SEC Release No. 33-8933, File No. S7-14-08

The National Association of Health Underwriters (NAHU), a professional association of more than 20,000 health insurance producers and employee benefit specialists nationally, has serious concerns about Rule 151A and specifically the question, "should the proposed definition apply to forms of insurance other than annuities, such as life and health insurance" on page 30. We are disturbed by the potential federal encroachment on the state-based regulation of health insurance and the loss of state-based consumer protections.

For more than 100 years, the business of insurance has been primarily regulated by the individual states. State regulatory oversight was created to provide very important protections for insurance consumers. These protections are not only critical because of the supervisory authority the states have over the insurance carriers involved in the sale of insurance products in their respective jurisdictions, but also because of the current ability of each state to ensure to each insurance consumer that any product they purchase, regardless of the place of purchase, is safe and meets standard guidelines for solvency. In recent years there have been numerous proposals put forward to shift insurance regulation away from the states to the federal level, or to create an optional federal insurance regulatory system. NAHU feels that such proposals do not ensure adequate consumer protections.

Of all the lines of insurance sold, health insurance products are already subject to the most federal regulation. Millions of Americans have health insurance coverage that is subject to at least partial federal regulation. As health insurance sales and service professionals, NAHU members see on a daily basis how consumers with issues or concerns with their insurance products may receive much less personalized attention from federal regulators than what can be provided at the state level, and consumers covered under federally regulated plans may be confused as to who can help them when they encounter a difficulty. While large employers with fully staffed human resources departments may be able to assist with problems that arise in self-funded plans, smaller employers without such resources benefit significantly from the close supervision provided by state departments of insurance.

NAHU also has concerns about how a federal regulator, or a more pervasive system of dual regulation, can adequately address protect consumers. We have already seen serious federal consumer protection flaws in the area of unauthorized health insurance sales, since unlicensed entities frequently claim to be regulated federally under Employee Retirement and Income Security Act (ERISA).

Dual regulation can also create an unlevel playing field in the market, which impacts both plan quality and cost. An example of this problem is already prevalent in the health insurance marketplace, with the widespread use of state mandated benefit requirements. Plans subject to state regulation must abide by these often costly mandates, whereas plans regulated federally under ERISA do not.

Additional federal insurance regulation, or the creation of an official dual regulatory process, would also put an increased burden on our members—health insurance agents and brokers, and could negatively impact their ability to represent their customers effectively. Furthermore, we have concerns that increased regulation could hurt the individual states by impacting their licensing and premium tax revenues, funding sources that currently pay for many of the essential state-level consumer protection services.

NAHU recognizes that the current state-based system of regulation has challenges, including market conduct and speed-to-market for insurance products, and, specific to health insurance product sales, rate reforms, mandates and other regulatory challenges. We feel that while financial modernization and integration are necessary and laudable goals, they should not sacrifice consumer protections. NAHU believes that the states have made significant progress toward solutions during the past few years, and we have confidence that they will continue to best protect consumers.

NAHU looks forward to continuing our work with both state and federal policymakers to improve the insurance regulatory system in America and protect the future of American insurance consumers. We strongly urge the Securities and Exchange Commission to withdraw Rule 151A and work to strengthen our state-based regulatory system and avoid moving in the direction of a national insurance regulator. If you have any questions or would like additional information, please do not hesitate to contact me at either (703) 276-0220 or jtrautwein@nahu.org.

Sincerely,



Janet Trautwein
Executive Vice President and CEO
National Association of Health Underwriters