

Council of the District of Columbia

Committee on Public Services and Consumer Affairs

Councilmember Vincent B. Orange, Chair

Agency Performance Oversight Hearing

February 11, 2013

Testimony of

William P. White, Commissioner

Department of Insurance, Securities and Banking

Introduction and Overview

Good afternoon, Chairman Orange and members of the Committee. I appreciate the opportunity to testify today on the continued development, growth and good work of the Department of Insurance, Securities and Banking.

The department is responsible for regulating insurance, securities, banking, and other financial services companies in the District. The department's mission is first, to fairly and efficiently supervise financial services in order to protect residents of the District; and second, to attract financial service businesses to the District.

When I appeared last year, I was in the process of realigning the department's structure. I am pleased to report that the realignment is complete. The financial-services markets we regulate have evolved, and so should our agency. The realignment centers on two main changes.

First, I brought all the department's market operational units – which oversee insurance, securities, risk finance and banking – under one group with its own deputy commissioner for market operations.

Previously, these bureaus operated independently. By combining them, we are leveraging the collective expertise of their staffs.

Second, I put consumer protection, enforcement and market examinations under one group with a second deputy commissioner for market compliance. The emphasis here is on consumer protection and on maintaining best practices for the companies operating in the District.

The department continues to generate revenue for the city with no taxpayer support. Our budget comes entirely from assessments and taxes on the companies we regulate, as well as from fees and fines, and from private and federal grants. In fiscal year 2011, the department generated \$108 million in revenue on a \$15 million budget. In fiscal year 2012, we brought in \$121 million on a \$17 million budget. In other words, every dollar of our budget generated \$7. Our approved fiscal year 2013 budget is just shy of \$18 million and again we expect to generate gross revenue of more than \$120 million.

Now, I'd like to highlight the activities of the department's operational bureaus and compliance divisions.

Enforcement & Consumer Protection

Our enforcement division is unique in the United States because it combines the capabilities to one, investigate insurance, securities and bank fraud and two, to take action to ensure compliance with District laws through cooperation with appropriate law enforcement agencies.

In fiscal year 2012, the division addressed 365 referrals and/or complaints. The courts ordered \$9.9 million in restitution and forfeitures for victims and our investigations recovered almost a quarter of a million dollars for D.C. residents. Perpetrators got jail time, probation, fines and community service.

This division also addresses consumer complaints. As we did in fiscal year 2011, in fiscal year 2012, the department resolved almost all complaints within 45 days.

On average, each year the department helps consumers recover between \$350,000 and \$400,000 through complaint resolution. During fiscal year 2012, the department recovered \$364,643 for District residents by resolving complaints.

Insurance Bureau

At calendar year-end 2012, there were 1,300 insurance companies licensed to operate in the District of Columbia. These companies generated \$97.7 million in tax and fee revenue in fiscal year 2012; more than \$70 million of that went to the District General Fund.

Also at year-end 2012, there were 66,192 licensed individual insurance brokers and sales people, including 1,152 who are District residents; and 4,971 licensed insurance business entities, including 129 in the District.

The insurance bureau continued the complex task of implementing the Patient Protection and Affordable Care Act of 2010, known as the “ACA.” The ACA requires the District’s Health Benefit Exchange to be operational by January 1, 2014. The department continues to work closely with the exchange authority to meet that deadline.

On another insurance topic, I want to let the Committee know that the department has engaged outside consultants for a transparent review of the level of surplus for Group Hospitalization and Medical Services,

Inc., known as GHMSI. Two meetings were held recently with CareFirst, DC Appleseed and the department's consultants to find areas of agreement and to discuss relevant issues for the review.

Next, I want to update the committee on DC Chartered Health Plan Inc., the District's largest Medicaid managed-care contractor. In October 2012 the department took the company into receivership, with the consent of the company's board. Chartered provides Medicaid benefit services to approximately 110,000 low-income District residents and the company employs about 160 people. I appointed a deputy rehabilitator to seek a solution for the situation. Our first priority has been to ensure that these low-income D.C. residents continued to get health care. As reported to the court on January 11, 2013, the rehabilitator continues to negotiate a transaction with suitor, AmeriHealth Mercy Family of Cos., a large health-care/Medicaid company headquartered in Philadelphia. As the rehabilitator, I continue to work under a court order so the terms and conditions of the agreement will be presented to the Court for approval soon and the details made public then. Also, the agreement recognizes

that Amerihealth is awaiting consideration of its bid for a new five-year Medicaid contract with the city beginning May 1, 2013.

The department has also been involved since the inception of the Mayor's task force to address issues surrounding the frequent flooding and sewer backups in the Bloomingdale and LeDroit Park neighborhoods. As the city's authority on insurance, our staff advised the task force on improving regulations and information to better protect residents. The Department has testified in support of Council member Kenyan McDuffie's (D-Ward 5) legislation to on this issue and we will continue our efforts in this area with the support of this committee.

I also want to mention the increasing importance of the District to international insurance regulation.

We believe more companies, especially international ones establishing branches in the U.S., will increasingly consider the District an important financial center. Since the 2008 crash, as federal regulatory agencies have taken on a larger role in the financial industry, the District has become increasingly important to financial institutions,

including global ones. Building on the work of my predecessors, the District is now taking a more active role in the move toward a more coordinated regulation of insurance companies, not just here in the U.S. but across the world.

I can report that because of the integrated approach we have taken to financial services regulation, I have been named to represent the National Association of Insurance Commissioners as a member of the Joint Forum, an international group bringing together financial regulatory representatives from banking, insurance and securities. This group develops guidance, principles and identifies best practices that are of common interest to all three sectors. I am honored to be entrusted with this responsibility. It will complement my role as Vice Chairman of the International Association of Insurance Supervisors' Governance & Compliance Subcommittee and will support my work as Vice Chairman of the International Insurance Relations Committee and as a member of the Federal Advisory Committee on Insurance with the Federal Insurance Office.

Banking

The banking bureau regulates District of Columbia-chartered banks and non-depositories such as mortgage companies and consumer finance companies. Two local commercial banks are chartered by the District: Bank of Georgetown and Industrial Bank.

The banking bureau also licenses and supervises approximately 830 mortgage lenders and brokers; 1,970 mortgage loan originators; 110 check cashers; 58 money transmitters; 35 consumer sales finance companies, and seven money lenders. Licenses for new companies rose by 20 percent during the 2012 fiscal year. The banking bureau also continues to respond to the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, particularly in the area of protecting consumers. Cooperation and information-sharing between the department and federal agencies is at an all-time high and will continue.

This year, the banking bureau expanded to include the D.C. Collateral Support Program which supports lending to small business in the District. It is part of the U.S. Treasury’s State Small Business Credit

Initiative. The Treasury has allocated \$13.2 million for District businesses. The program increases lending opportunities for small businesses by providing cash collateral to lenders to back loans made to those businesses. By leveraging the credit of private lenders, the program makes far more capital available to small businesses. Another program, the Certified Capital Company Program, has invested approximately \$32.5 million of the \$50 million available in 36 businesses ranging from software and technology to construction and hospitality since it began in 2004.

In fiscal year 2011, the D.C. Council passed the Saving D.C. Homes from Foreclosure Act, giving District residents the option of pursuing mediation with their lenders before the lender can pursue foreclosure. Since the program's inception in May 2011, 76 percent of mediations prevented foreclosures with lenders and homeowners agreeing to loan modifications, repayment plans, reinstatements, short sales and other alternatives. In fiscal year 2012, 89 percent of mediations reached a result other than foreclosure. Residential

foreclosures have decreased in the District over the last three years from 1,349 in 2010, to 566 in 2011, and 89 in 2012.

Last year, I reported on our participation with some states in a national investigation into “robo-signing” and other questionable mortgage-servicing practices. In April 2012, the group reached a historic \$25 billion settlement with five large mortgage servicers. They set aside up to \$40 million in relief for District borrowers in the form of principal reduction, new refinancing products, extended loan modifications, cash assistance for moving and other programs.

Another \$4.4 million of the settlement will support our foreclosure-mediation and housing-counseling programs. The funds will also help pay for legal assistance for homeowners facing foreclosure; provide a hotline for distressed homeowners; and help District residents get the money they are eligible for through the settlement. A request for proposals is outstanding for these new programs; responses are due February 22, 2013.

Also this year, the department's banking bureau absorbed the "Bank on DC" program from the Office of the Deputy Mayor for Planning and Economic Development. Since April 2010, Bank on DC has helped 4,100 "unbanked" residents get bank accounts and break the cycle of using expensive check-cashing services. We are happy to take on this responsibility and look forward to expanding resident access to financial services.

Securities Bureau

During fiscal year 2012, the securities bureau licensed more than 130,000 securities professionals, nearly 2,000 firms and also processed 53 registrations of securities offerings and 24,000 notice filings for mutual funds.

More firms came under the securities bureau's purview this year as a result of the Dodd-Frank Act. The act authorized states to license investment advisers managing assets of \$100 million or less, up from \$25 million or less.

Twenty-nine investment firms formerly regulated by the Securities and Exchange Commission are now under the department's jurisdiction. The investment adviser "switch," went very smoothly, thanks to the diligence and cooperation between the District and the SEC.

In fiscal year 2012, the securities bureau collected a total of \$877,967 in fines from securities firms. More than half came from misconduct in the sale of auction-rate securities and the remainder from a multi-state settlement with Merrill Lynch for the firm's failure to license a large number of associates that engaged in sales activity with investors.

Additionally, the securities bureau is reviewing the way it regulates securities offerings so that it can accommodate the Jumpstart Our Business Startups Act, known as the JOBS Act. The act permits "crowd funding" – obtaining funding in small amounts from large numbers of investors – and liberalizes other federal requirements on small public companies.

The securities bureau also focused on educating the public about the susceptibility of the elderly to financial exploitation. Department staff educated seniors at six of the city's senior wellness centers and also participated in the Elder Investment Fraud and Financial Exploitation Prevention Program, a multi-state project sponsored by the Investor Protection Trust. The Bureau also, in conjunction with the Communications Office, sponsored on-line financial literacy training for more than 200 credit union and DC Government employees.

Risk Finance Bureau

The District continues to be one of the premier jurisdictions for captive insurance companies in the U.S. In fiscal year 2012, the department licensed 15 new captives. Since the program's inception in 2001, captive insurers domiciled here have paid \$9 million in premium taxes and licensing fees. Captives also generate jobs for accountants, managers, attorneys and actuaries. Many notable companies own captives domiciled in the District, including General Motors, Subaru, Dow Corning, AARP, Goldman Sachs, MedStar Health, Amtrak, the

New York/New Jersey Port Authority, Warren Buffett's investment company Berkshire Hathaway, and the University of California.

Before concluding, I want to highlight some of our work with fellow state and international regulators. As financial services regulation continues to take on a more national and international character, I'm happy to report the department is positioned to continue its growing role in the development of financial services regulation. The department has an active presence at the North American Securities Administrators Association (NASAA) and the Conference of State Banking Supervisors (CSBS), the National Association of Insurance Commissioners (NAIC) and the International Association of Insurance Supervisors (IAIS). Currently, six Department staff serve on several different NASAA working groups including the new NASAA Internet Fraud Investigations Task Force which focuses on the consumer protection issues surrounding crowd funding, a topic I discussed earlier. Likewise, DISB participates in the American Association of Residential Mortgage Regulators (AARMR), the National Association of Consumer Credit

Administrators and the Money Transmitter Regulators Association (MTRA). DISB is also represented in a dozen NAIC committees touching on all aspects of the insurance marketplace.

Conclusion

As a final point, I would like to emphasize the Department's overall efforts to meet all of our regulatory responsibilities. The department's enhanced financial services regulatory platform is aimed at comprehensive consumer protection and can be a major contributor to District economic development. The department's presence in national and international forums provides an opportunity to enhance staff subject matter expertise and establish credibility with the industries we regulate. We want the District to be recognized as a jurisdiction that has: fair, efficient, and effective financial services regulation; knowledgeable staff; compliance capabilities; and integrated operations. This provides consumers and businesses both with a level of confidence

that our department is up-to-date with market developments and is consistent and clear in the exercise of its regulatory authority.

This concludes my summary of the department's work and program growth over the past year. Thank you again, Chairman Orange and members of the Committee. I'd be happy to answer your questions.