

HEARING ON
AGENCY PERFORMANCE OVERSIGHT ON FY 2014-2015
COMMITTEE ON BUSINESS, CONSUMER AND REGULATORY
AFFAIRS
VINCENT ORANGE, COMMITTEE CHAIR



TESTIMONY OF CHESTER A. MCPHERSON
ACTING COMMISSIONER
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING
COUNCIL CHAMBER
ROOM 412
WILSON BUILDING
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Introduction and Overview

Chairman Orange, members of the Committee and staff. I am Chester McPherson, the acting commissioner of the Department of Insurance, Securities and Banking. I appreciate the opportunity to testify today.

The department regulates insurance, securities, banking and other financial services. Our mission is two-fold: (1) protect consumers by providing equitable, thorough, efficient, and prompt regulatory supervision of the financial services companies, firms, and individuals operating in the District of Columbia; and (2) develop and improve market conditions to attract and retain financial services firms to the District.

The department has four bureaus supervising our market operations in insurance, banking, securities and risk finance. In addition, we have divisions overseeing market compliance, enforcement and consumer protection, market examinations, agency management and

communications. During this testimony, I will share fiscal year 2014 highlights and 2015 initiatives starting with insurance.

Insurance Bureau

More than 1,300 insurance companies are licensed to operate in the District. Fourteen of these companies are incorporated in the District. While the majority of the companies are property and casualty insurers, the majority of the insurance premium written in the District is for health insurance. On average, \$8 billion of insurance premium is written in the District each year. Altogether, these companies generate almost \$95 million in taxes and fees for the District's General Fund.

As the Committee knows, the department has had a significant role in the District's implementation of federal health care reform, the Patient Protection and Affordable Care Act of 2010, known as the "ACA."

Notably, the department plays a vital role in supporting the operations of the DC Health Link by performing all functions related to plan management. Our work includes the review and certification of qualified health plans, and ongoing monitoring for market compliance.

We are also responsible for resolving complaints from insurance companies and residents regarding health insurance purchased on DC Health Link.

In advance of open enrollment for 2015, the department carefully reviewed all the insurance plans to be offered on DC Health Link to ensure that the rates are fair and reasonable. The result was a diversity of health plans in terms of cost and choice for District residents and small businesses. In addition, because of this rigorous review process, all of the insurers lowered their rates from what they originally proposed for 2015, some by as much as 17 percent.

The department also enhanced the transparency of our health insurance rate review and approval process by providing the public with access to our rate filings database via our website. There, the public can see recently filed rate changes and provide feedback to the department for consideration in connection with the rate review and approval process.

Also related to the insurance bureau, I would also like to highlight the bulletin we issued requiring District health insurance companies to provide coverage for gender dysphoria as a recognized medical condition. This action permitted those with gender dysphoria to obtain medically necessary benefits and placed the District at the forefront of advancing the health insurance rights of transgender individuals.

I will now briefly report on our captive insurance program. The District is one of the premier jurisdictions in the nation for regulation of captive insurance companies. The department expects the captive industry to grow as companies increasingly seek alternatives to the traditional insurance market. In fact, 19 new captives were chartered in the District in 2014, and six have been chartered in 2015 to date. Recent amendments to our captive law will further enhance the District as a destination of choice for captive insurers. In addition, DISB is working with key stakeholders on a plan to market the District's captive program. Our department is well-positioned to charter new captives as this trend

continues, thus providing additional revenues for, and potential jobs in, the District.

Banking

Next, I will discuss the activities of our banking bureau. 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. They both continue to thrive as community-based financial institutions. Two national banks, City First Bank of D.C. and the National Capital Bank of Washington, are also domiciled here.

The department is working on ways to attract more banking business to the District. We recognize that one barrier to this is that our banking bureau is not accredited. Similar to how colleges and hospitals strive to be accredited, the department wants that same recognition for achieving a standard of excellence for its bank regulatory program. By not being accredited, in some circles there is the perception that our

regulatory processes do not meet the highest standards, thereby discouraging banks from locating to the District. However, we are in the process of applying for accreditation to the Conference of State Bank Supervisors. This is a high priority for the banking bureau and we are moving full steam ahead.

The banking bureau also licenses and supervises approximately 4,380 financial services professionals operating in the District, including mortgage lenders and brokers; mortgage loan originators; check cashers and money transmitters. In fiscal year 2014, the banking bureau completed the transition to a single, coordinated state-based licensing system called the NMLS (currently used by more than 30 other states) for all non-depository licenses issued by the department. Previously, NMLS was used only for mortgage-related licenses. This all-online system allows for greater efficiency and improved oversight. It also links the District with other states to better protect residents.

The banking bureau is required by District law to examine mortgage companies every three years. In prior years, the banking

bureau has had difficulty keeping up with this examination cycle due to a lack of examiners. This resulted in a backlog of 358 examinations out of a total of 443, in other words, we were only examining 20 percent of these companies every three years. However, in the last two fiscal years the banking bureau has hired nine new examiners and completed 211 exams. The remaining 147 exams will be completed during the current fiscal year thereby eliminating the examination backlog. Accordingly, for the very first time, the banking bureau will achieve a regular three-year examination cycle.

Next, I will discuss our finance programs for District small businesses. Less than two years ago, the banking bureau supported the first loan provided under the D.C. Collateral Support Program, a program that uses federal funds to support lending to local small District-based businesses. Thus far, this program has utilized some \$3.5 million of federal funds to leverage \$8.4 million in private sector capital to District small businesses. To date, DISB estimates 58 new jobs have been created and 170 jobs retained through loans made by the program.

DISB is in the process of launching two new programs to utilize additional federal funding. These programs are the Loan Participation Program and Innovation Finance Program, which we detail in our written response to the Committee.

Now, I'd like to give you an update on the department's foreclosure prevention efforts. At this hearing in 2014, we reported on our participation with some states in a national investigation into "robo-signing" and other questionable mortgage-servicing practices. The group reached a historic national settlement and \$4.4 million of the settlement was allocated to D.C. I am pleased to report that all of these funds are going directly to foreclosure and housing-related support for residents.

Through a department-supervised contract with Housing Counseling Services, a local housing services non-profit, the funds are paying for legal aid for homeowners facing foreclosure, housing counseling services and to support a hotline for distressed homeowners. Housing Counseling Services launched a city-wide public relations

campaign with bus ads and public service announcements to inform the public about the new resources and the hotline. Three hundred and fifty eight residents called the hotline in fiscal year 2014, and 364 clients have received housing counseling. In addition, Housing Counseling Services held 43 foreclosure prevention clinics reaching 116 at risk homeowners, and have provided assistance with some 600 foreclosure cases pending before the D.C. Superior Court.

Our department's Foreclosure Mediation Program has also been successful in foreclosure prevention. Since the program's inception in May 2011, 78 percent of mediations prevented foreclosures because lenders and District homeowners agreed to loan modifications, repayment plans, reinstatements, short sales and other alternatives.

I will now talk briefly about our "Bank on DC" program. Since April 2010, Bank on DC has helped 7,302 residents establish traditional banking relationships through area banks, credit unions and community partners. In fact, nearly 1,000 Bank on DC accounts were opened in fiscal year 2014, alone. Bank on DC accounts feature low minimum

balance requirements and no- or low-cost monthly fees. “Second chance accounts” are also available for those who need to establish a new banking relationship. On average, consumers who have opened a checking or savings account through Bank on DC save \$800 annually in check cashing fees.

Also, to better focus our efforts in serving the unbanked and underbanked, we are in the process of conducting a banking survey of District residents. This survey will analyze the needs of unbanked and under-banked households in the District. Among the goals of this survey is to develop solutions, such as “virtual teller ATMs,” to address “banking deserts” in certain areas of D.C. where banking services are less available.

Securities Bureau

Now, I will discuss the activities of our securities bureau. The securities bureau licenses and monitors investment advisers and their representatives, and broker-dealers and their agents, and reviews certain

public securities offerings in the District, independently or in conjunction with the federal Securities and Exchange Commission.

I am pleased to report that in October 2014 our securities bureau promulgated a new regulation to facilitate equity crowdfunding for District small businesses. Under this regulation, D.C.-based businesses can raise capital from District residents, subject to providing the required disclosures, meeting other conditions, and submitting filings to the department. The regulation supports District entrepreneurship, while at the same time protecting D.C. investors.

And, on February 3, 2015 the department authorized the first offering under the provisions of this new regulation. A company was approved to raise \$200,000 from District residents to help fund a restaurant business in the District. Our regulation in this area is considered one of the most progressive in the nation. We will continue to conduct outreach and education about this fundraising option to the D.C. small business community.

For fiscal year 2015, the department also plans to propose franchising disclosure legislation. Franchising ranges from fast food to hospitality to automobile service. This legislation would provide a measure of protection to D.C. residents who may be solicited to purchase franchise opportunities without having been provided a complete description of the risks, conditions and benefits of such investments. Seventeen other states have similar legislation.

Also related to our activities in the securities bureau, starting in early 2013, the department provided critical support to the Office of the Attorney General with a lawsuit brought by the District against Standard & Poor's Financial Services. The lawsuit alleged that many of S&P's ratings of structured-finance securities were not objective and independent; rather, they were driven by S&P's own financial interest in attracting business from the issuers. On February 3, 2015, the District, the U.S. Department of Justice and 19 other states reached a \$1.375 billion settlement agreement with S&P resulting in a payment to the District of \$21,535,714.

Enforcement & Consumer Protection

Among the department's responsibilities is protecting consumers from fraud, scams and unfair or illegal practices. The department meets these responsibilities through its enforcement and consumer protection division and its complaint resolution functions. The department investigated and addressed 367 cases in fiscal year 2014. In some of these cases, perpetrators got jail time, were put on probation, or were required to perform community service or pay fines. The division continues to broaden the training for its investigators to meet the increasing complexity of scams and illegal practices impacting the District's financial services market.

In addition, the department issued 25 enforcement orders against firms and individuals charged with violating District laws in fiscal year 2014. Those actions resulted in \$456,894 in fines and \$126,290 in restitution orders. A significant number of those enforcement actions were successfully resolved by the department after hearings were

conducted before either the Office of Administrative Hearings or the department's Hearing Officer.

Addressing consumer complaints is also another way we fulfill our consumer protection role in the District. More than eighty percent of the complaints we receive involve insurance, followed by banking and other financial services. As we did in fiscal year 2013, in fiscal year 2014, the department resolved almost all complaints within 45 days, which is a key performance indicator for the agency. Over the last two fiscal years, more than \$1.40 million was returned to D.C. residents through complaint resolution by the department. The majority of recoveries come from insurance companies where DISB intervenes on behalf of the consumer in claims and policy disputes. As we have done in the past, we will continue to analyze complaint trends to inform our consumer education efforts and identify areas for examination.

Community Outreach

Before concluding, I would like to brief the committee on the department's outreach and financial education efforts. We provided

financial education and consumer protection information to 7,294 residents in fiscal year 2014, and have already reached 1,571 residents thus far in fiscal year 2015. We continue to focus on educating our seniors who all too often are targets of fraud. We also focus on financial education for D.C.'s youth. In collaboration with the Department of Employment Services, Bank on DC launched a pilot program, the Young Money Managers, where Summer Youth Employment Program students teach their peers financial literacy skills. Since then, area banks and non-profits helped the Young Money Managers facilitate more than 300 workshops or online education for D.C.'s youth.

The department continues to use a combination of digital and in-person means to provide fraud prevention and financial education. This includes fraud prevention workshops at every city senior center and using our social media platforms to share financial and insurance resources. Examples include our DISB Consumer Financial Resources Guide; videos of our department's experts speaking on financial and insurance topics; and alerts about scams or fraud. We are also working

on a mobile friendly version of our website to adapt to the increase in consumers viewing our webpage on tablets and mobile devices.

Conclusion

I believe we are well-positioned to meet our regulatory responsibilities, protect consumers and support the District's economic development goals. Even so, we are continually evaluating our resources, processes, and procedures to ensure that we remain responsive in providing efficient services to our constituents. This concludes my testimony. Thank you again, Chairman Orange and members of the Committee. I will be happy to answer your questions.