Government of the District of Columbia

Department of Insurance, Securities and Banking

Testimony of

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Commissioner

Performance Oversight Hearing for the Department of Insurance, Securities and Banking

Committee on Public Services and Consumer Affairs
Muriel Bowser, Chairperson
Council of the District of Columbia

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Good Afternoon Chairperson Bowser, Members of the Committee, and Committee Staff. I am Thomas Hampton, Commissioner for the Department of Insurance, Securities and Banking ("DISB" or "Department") and I am pleased to be here today to testify on the performance of our agency during Fiscal Year 2008. Joining me today is Bright Ahaiwe, our Controller.

DISB is responsible for regulating insurance, securities, banking, and other financial service providers that operate in the District of Columbia. In FY 2008, the Department had been authorized 129 FTEs to regulate the activities of our licensees that provide financial products and services to businesses, associations, and individuals located in our jurisdiction. The Department has five operating bureaus: the Insurance Bureau, Securities Bureau, Banking Bureau, Risk Finance Bureau, and Enforcement and Investigation Bureau. The budget of the Department is funded through assessments, taxes, and fees assessed to the entities we regulate.

The Department's budget in FY 2008 was $17, 743, 695. The entities regulated by DISB provided $71,184,210 in revenue to the General Fund in FY 2008, which is approximately $11,196,000 or approximately 16% less than the $82,380,210 in revenue provided to the General Fund in FY 2007. The primary cause of this reduction is the economic downturn which has had a devastating affect on the financial services industry.

The downturn has reduced the number of licensees as well as the volume of transactions completed in FY 2008. Notwithstanding the economic slowdown, DISB continues to

focus on strategies, in conjunction with the federal government and other state financial services regulators, to increase the level of business activities from the financial services companies in our jurisdiction. Further, DISB continues to attract more financial services companies and other activities to the District to mitigate the reduction in revenues and to provide competitive services to our businesses and residents.

DISB's mission is twofold – (1) to create conditions that will attract and retain national and international insurance, securities, banking and other financial service businesses to the District of Columbia, and (2) to provide fair and efficient supervision of financial service activities for the protection of the people of the District of Columbia. The Department supported initiatives and projects in FY 2008 that advanced both segments of our mission. We have continued goals and objectives in FY 2009 to support our mission.

Attract and retain financial services businesses

Several years ago, DISB initiated a strategy to attract more financial services companies to domicile in our jurisdiction. These companies are a perfect fit for the District with its small size and highly educated workforce. New businesses provide jobs to local residents, lease office space within the District, and pay District taxes. DISB issued its first captive license in 2001, and today, the District of Columbia has become one of the leading U.S. domiciles for captive insurance companies and risk retention groups in the Nation. Captives are insurance companies that insure the risks of the corporations or associations that own them. Risk Retention Groups ("RRGs") are companies that insure the liability risks exposures of associations pursuant to the Federal Liability Risk

Retention Act of 1986. DISB has approximately 105 captives and RRGs licensed, which represents an increase of twenty-eight (28) companies over the FY 2007 seventy-seven (77) licensed companies. We believe that the number of licensed companies in this category could increase to approximately one hundred and twenty (120) companies by the end of FY 2009.

There are over thirty (30) US jurisdictions which have enacted captive statutes. Some of these domiciles have a philosophy of using the number of licensees as the barometer of success. DISB, on the other hand, sets its measure for success on increasing the number of medium-to-large sized premium volume captives and RRGs licensed to operate in the District. These types of increase will provide sufficient revenue to cover the operating budget of the Risk Finance Bureau, and a larger boost in the District's tax revenues and economic development. To achieve this, DISB decided to market our captive license services to investment banks, major insurance brokerages, and insurance companies. We have provided them information on our captive insurance law, our regulatory process and the benefits of being domiciled in Washington, DC. I believe our hard work on this effort has begun to pay larger dividends. In FY 2008, DISB licensed captives for AARP, the New York/New Jersey Port Authority, the United Methodist Church, the owners of the Sears Tower, and Berkshire Hathaway. Recently, our Department licensed two captives and a traditional life insurance company from the investment bank, Goldman Sachs. Unlike many captive jurisdictions, the District has experienced significant growth of captive licensees, even with this economic downturn. The District will reap the financial benefits of those new captives when they begin paying premium taxes in FY 2010.

It should be noted that the cost of operating the Risk Finance Bureau previously was more than the revenues collected from the captives. This mismatch caused a funding concern for the Bureau during FY 2008. In response, DISB took significant steps to reduce the operating cost of the Bureau and we believe this imbalance will not occur in FY 2009. Based on the revenues received to date in FY 2009, and the expense projections through the remainder of this fiscal year, DISB is confident the Bureau will generate sufficient funds to cover its costs.

In FY 2008, DISB continued its promotion of our state bank charter process as an alternative to a federal or non-District state banking charter. We currently have two DC chartered banks – the Bank of Georgetown and Industrial Bank. We continue to market the benefits of our regulatory process to other banks located in our jurisdiction. The continued economic downturn and the discussion at the federal level related to bank regulatory reform have retarded our efforts to increase bank charters this fiscal year. We believe that it will take another year to address the credit crunch and regulatory concerns of banks; at that time, DISB will be well positioned to compete to obtain additional District-charted banks.

DISB has been working with our chartered banks as well as other banks operating in the District to expand their services to the underserved areas. The Council recently enacted the District Reserve Funds Act of 2008, which provides a larger percentage of District Government funds to be deposited in small local banks, including District-charted banks.

We believe these types of incentives will increase banking access to underserved communities and reduce the cost of banking and loan services to small businesses and consumers. In fact, one of our banks has recently been certified as a Certified Business Enterprise by the Department of Local, Small and Disadvantage Business Enterprises, giving other certified businesses access to loans.

Provide Fair and Efficient Supervision of Financial Services

In FY 2008, DISB continued to review its regulatory processes in an effort to reduce the time and resources needed to complete our regulatory responsibilities while maintaining a high level of efficiency and effectiveness. Currently, our licensing processes in almost every category are automated. DISB also developed a complaint module in State Based Systems (SBS), which is a National Association of Insurance Commissioners ("NAIC") insurance company and producer licensing system, that will be used to maintain consumer inquiries and complaints with the licensing information so that DISB can track and improve service to consumers.

The Department continues to work with other state regulatory agencies to recommend legislation to the Council that would increase the uniformity of our regulatory process with other jurisdictions. It is important to have uniformity of regulatory processes in order to reduce the cost of regulation, especially in situations where consumer protection is not reduced.

Even with our successful effort to attract and retain financial services, and to increase the efficiency and effectiveness of the DISB regulatory processes, the Department has met all its established objectives and initiatives for FY2008. These objectives include addressing the affordability and availability of health insurance coverage; reducing insurance, securities and banking fraud; and improving consumer confidence and increasing the availability of financial services to District residents.

Address the affordability and availability of health insurance coverage

The affordability and availability of health insurance for all District of Columbia residents continues to be an important initiative for the Executive and Council. Studies conducted in 2008 have reported that the uninsured population in the District of Columbia is in excess of 50,000 residents. To help maintain free clinic health care for some of the District's most vulnerable residents, DISB, in FY 2008, completed the establishment of a District government-owned captive insurance company to provide medical malpractice liability insurance coverage to a network of non-profit health clinics. The Office of Risk Management was given responsibility to operate the captive and DISB continues to consult with ORM about on-going operations of the company and will regulate the company.

Additionally, DISB is working on the development of high risk health insurance legislation that will provide coverage to residents who cannot be underwritten by commercial health carriers due to pre-existing health conditions, and do not qualify for governmental health program limits.

Reduce insurance, securities, and banking fraud through prevention, detection, and enforcement

DISB believes that consumer awareness of financial scams and frauds is a powerful crime prevention tool and we provided information to consumers. For example, we have develop a committee within the Department to provide a more content rich and consumer-friendly Web site, and we are accessing more consumers through more youth-oriented mediums such as Facebook. In addition to assisting consumers with obtaining financial services, the information to consumers have led to an increase in the in the amount of referrals to DISB for investigations. Additionally, the Department coordinated our enforcement efforts with other enforcement agencies throughout the District, including the FBI, Postal Service, and Department of Treasury, to discuss methods to better prosecute individuals that violate our financial services laws. We also developed an insurance agent enforcement process that significantly increased the number of administrative actions taken against insurance producers who operate in violation of DC laws.

In FY 2008, District citizens, particularly seniors, were targets of financial fraud scam artists perpetuating mortgage and securities scams and other related financial frauds. Financial fraud culprits do not go unpunished in the District. For example, an individual investigated by DISB was recently sentenced in U.S. District Court to 150 months in prison and $912,000 restitution after being found guilty for illegally obtaining more than

twenty properties in the District of Columbia through forgeries of signatures of deceased and living persons, and other illegal deed transfers. We have several other mortgage frauds cases that are currently being investigated by our Department.

With a worsening economy, DISB expects to see increased attempts to defraud District citizens through insurance agent fraud, insurance auto owner give up fraud, investment schemes, foreclosure scams, and identity theft. We encourage District citizens to fight back by being informed, by contacting the Department or their law enforcement officials and by refusing to tolerate any type of financial services fraud perpetrated against them.

Improve consumer confidence in, and increase the availability of, financial services to District residents

In an effort to improve consumer confidence in financial services companies providing services to District residents, DISB implemented the Payday Loan Consumer Protection Act of 2007. The new law required all companies that engaged in the business of deferred deposit check cashing, also referred to as payday lending to be licensed under a provision of the Money Lenders Act. Additionally, the law made the District's 24 percent interest cap applicable to payday loans. The six check-cashing firms licensed to engage in payday lending in the District ceased making payday loans in the District. The Department continues to monitor compliance with the statute through examinations and reporting requirements.

DISB also developed a foreclosure mitigation plan to assist consumers who mortgages are in default or pending foreclosure. The number of foreclosures in the District of Columbia experienced a dramatic increase in 2008, and we anticipate an additional increase in foreclosures throughout 2009 as the interest rate of many adjustable rate mortgages reset to a higher percentage rate and because of the economic downturn. In fiscal 2008, the District of Columbia had 995 foreclosures of residential properties which are more than three times higher than the prior fiscal year result of 282.

The Department will continue to assist homeowners facing a mortgage default or foreclosure. The Department has provided a Foreclosure Hotline connecting consumers with counseling and other foreclosure related resources. We also have provided and financial education to District homeowners facing foreclosure, including the Department's Foreclosure Kit. Additionally, the Department will be proposing legislation to improve the foreclosure process and make if more fair for homeowners presently facing foreclosure.

Finally, the Department is monitoring "Homeowner Affordability and Stability Plan," announced by President Obama, which will focus on preventing millions of U.S. homeowners from losing their homes by providing refinancing, encouraging lenders to modify mortgages, allowing court ordered mortgage modifications in bankruptcy.

Conclusion

DISB is pleased with our accomplishments in FY 2008. We will continue to monitor closely the activities of the business we regulate during the economic crisis, and protect

and assist District consumers who utilize those services. We will continue to be accessible to the public through increased public outreach efforts, including print and broadcast media, Internet, events, publications, and community presentations.

Thank you again for providing the opportunity for me to testify on the performance of the Department. My staff and I will be happy to answer any questions you may have.