NAIC

National Association of Insurance Commissioners

& The Center for Insurance Policy and Research

February 24, 2016

The Honorable Jason Chaffetz
Chair
Oversight & Government Reform Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Elijah Cummings
Ranking Member
Oversight & Government Reform Committee
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chair and Mr. Ranking Member:

We write to you on behalf of the National Association of Insurance Commissioners (NAIC), which represents the insurance regulators in the fifty states, Washington, DC, and the five U.S. territories. As the committee prepares for its hearing on the Consumer Oriented and Operated Plans (CO-OPs) created under the Affordable Care Act (ACA), we would like to add the following insights.

Each CO-OP is unique and each faces different challenges in its market. The specific factors that led to the failure of a CO-OP vary. Some of the contributing causes state regulators have identified are: they were new companies taking on unknown risk pools and operating in a very competitive marketplace; their enrollment was higher or lower than expected in some states; and, some had operational challenges. Another key factor was the management of the programs intended to help them: the risk corridor and risk adjustment programs.

The risk corridor program was, and continues to be, of particular concern to CO-OPs and state regulators. First, Congress decided to significantly change the rules of the program after CO-OPs and other carriers had already set their rates, requiring it to be budget neutral each year. This cut funding for carriers by $2.5 billion in 2014 alone. In addition, actions by the Centers for Medicare and Medicaid Services (CMS) to downplay the shortfall and delay the final announcement further damaged the financial health of some CO-OPs.

The risk adjustment formula is also of great concern to state regulators. The current formula used by the federal government has proven to place newer carriers at a distinct disadvantage. The NAIC has urged CMS to review the formula and work with carriers and state regulators to make adjustments for 2015 and 2016 to ensure it is providing appropriate protection for all carriers, and not wait until 2017 or 2018 to enact reforms.

State regulators have also requested flexibility to set enrollment caps for Qualified Health Plans – both CO-OPs and non-CO-OPs – prior to open enrollment when they determine that the plan would be significantly impacted if it took on enrollment beyond its financial capabilities. To date, the federal Exchange has rebuffed these requests, blaming technical issues. Controlling enrollment can be an important tool in preserving the solvency of carriers and this tool should not be taken away due to technical issues.

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Finally, for the sake of the eleven CO-OPs that continue to operate in our states, we encourage all congressional members and their staff to heed the confidential nature of some of the financial information that may come to your attention. Divulging information on state actions or the financial status of any plan that is not public could threaten the long-term success of these plans.

Thank you for your consideration. We are available to answer any questions you or other members of the Committee may have about these or other issues impacting CO-OPs or the health insurance market as a whole.

Sincerely,

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