

ANTHEM INSURANCE COMPANIES, INC.

**NOTICE OF APPLICATION FOR PROHIBITED TRANSACTION
EXEMPTION**

This notice affects Statutory Members who hold policies or certificates associated with welfare benefit plans subject to the Employee Retirement Income Security Act of 1974 ("ERISA"). Generally, you are affected if (1) you are an employer (other than a government or church) or an employee organization that maintains an Anthem insurance policy for the purpose of providing welfare benefits to employees, or (2) you are an employee who holds a certificate issued under a group insurance policy or health care benefits contract maintained by an employer (other than a government or church) or employee organization for the purpose of providing welfare benefits to employees.

Required Notice to Interested Persons

You are hereby notified that the United States Department of Labor is considering granting an exemption from the prohibited transaction restrictions of ERISA and the Internal Revenue Code of 1986. Absent an exemption, these restrictions could otherwise apply to and prohibit a plan's receipt of compensation in exchange for membership rights extinguished in a demutualization. The exemption under consideration is explained in greater detail in the following Notice of Proposed Exemption ("Notice"), which was published in the Federal Register on August 3, 2001. If you are a person who may be affected by this exemption, you have the right to comment on the proposed exemption by October 1, 2001.*

Comments should be addressed to:

Office of Exemption Determinations
Pension and Welfare Benefits Administration
Room N-5649
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210
Attention: Application No. D-10979

The Department of Labor will make no final decision on the proposed exemption until it reviews all comments received in response to the Notice.

* The following Notice states that the deadline for submitting comments on the proposed exemption is 45 days after the date the proposed exemption was published in the Federal Register. The deadline for submitting comments has been extended to October 1, 2001.

DEPARTMENT OF LABOR**Pension and Welfare Benefits Administration**

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests: All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N- 5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. __, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N- 5638, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the

Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

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Section II. General Conditions

(a) The Plan of Conversion is subject to approval, review and supervision by the Commissioner of Insurance of the Indiana Department of Insurance (the Commissioner) and is implemented in accordance with procedural and substantive safeguards imposed under Indiana law.

(b) The Commissioner reviews the terms and options that are provided to Eligible Members as part of such Commissioner's review of the Plan of Conversion, and the Commissioner approves the Plan of Conversion following a determination that such Plan is fair, reasonable and equitable to Eligible Members.

(c) Each Eligible Member has an opportunity to vote to approve the Plan of Conversion after full written disclosure is given to the Eligible Member by Anthem.

(d) Any determination to receive Common Stock or Cash by an Eligible Member which is a Plan, pursuant to the terms of the Plan of Conversion, is made by one or more Plan fiduciaries which are independent of Anthem and its affiliates and neither Anthem nor any of its affiliates exercises any discretion or provides "investment advice" within the meaning of 29 CFR 2510.3-21(c), with respect to such decisions.

(e) Any determination to receive Common Stock or Cash by an Eligible Member which is a Plan Participant, pursuant to the terms of the Plan of Conversion, is made by such participant and neither Anthem nor any of its affiliates exercises any discretion or provides "investment advice" within the meaning of 29 CFR 2510.3-21(c), with respect to such decisions.

(f) After each Eligible Member entitled to receive shares of Common Stock is allocated at least 21 shares, additional consideration is allocated to Eligible Members who own participating policies based on actuarial formulas that take into account each participating policy's contribution to Anthem's statutory surplus, which formulas are subject to review and approval by the Commissioner.

(g) All Eligible Members that are Plans or Plan Participants participate in the transactions on the same basis and within their class groupings as all Eligible Members that are not Plans or Plan Participants.

(h) No Eligible Member pays any brokerage commissions or fees in connection with their receipt of Common Stock or in connection with the implementation of the commission-free purchase and sale program.

(i) All of Anthem's policyholder obligations remain in force and are not affected by the Plan of Conversion.

Section III. Definitions

For purposes of this proposed exemption,

(a) The term "Anthem" means Anthem Insurance Companies, Inc. and any affiliate of Anthem, as defined in paragraph (b) of this Section III.

(b) An "affiliate" of Anthem includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Anthem; (For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.) and

(2) Any officer, director or partner in such person.

(c) A "policy" is defined as (1) any individual insurance policy or health care benefits contract that has been issued by Anthem and under which the holder thereof has membership interests in Anthem; (2) any certificate issued by Anthem under a group insurance policy or health care benefits contract under which certificate the holder thereof has membership interests in Anthem; or (3) certificates of membership issued by Anthem in or under guaranty policies under which certificate the holder thereof is a member of Anthem with membership interests.

(d) The term "membership interests" means (1) voting rights of Anthem's members as provided by law and Anthem's Articles of Incorporation and Bylaws, and (2) the rights of members to receive cash, stock, or other consideration in the event of conversion to a stock insurance company under Indiana Demutualization Law or a dissolution of Anthem as provided by Indiana insurance law and Anthem's Articles of Incorporation and Bylaws.

(e) The term "Eligible Member" means a person or entity (1) whose name appears on Anthem's records as the holder of one or more in force policies issued by Anthem as of both the date the Board of Directors adopts the Plan of Conversion and the effective date of the Plan of Conversion, and (2) who has had continuous health care benefits coverage with the same insuring company during the period between those two dates under any policy without a break of more than one day.

(f) The term "Parent Company" refers to a corporation organized and existing under the Indiana Business Corporation Law. Prior to the conversion, the Parent

Anthem Insurance Companies, Inc. (Anthem), Located in Indianapolis, IN

[Application No. D-10979]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975 (c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).¹³

Section I. Covered Transactions

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the receipt, by an employee benefit plan (the Plan) or by a Plan participant (the Plan Participant) that is a member of Anthem (together, the Eligible Members) by reason of the ownership of an insurance policy or contract issued by Anthem, of common stock (Common Stock) issued by Anthem, Inc. (the Parent Company), a newly-formed holding company or cash (Cash), in exchange for such Plan's or Plan Participant's mutual membership interest in Anthem, in accordance with a plan of conversion (the Plan of Conversion) adopted by Anthem and implemented under Indiana law.

This proposed exemption is subject to the following conditions set forth below in Section II.

¹³ For purposes of this proposed exemption, references to provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

Company will be a wholly owned subsidiary of Anthem. Upon the conversion of Anthem to a stock company, the Parent Company will serve as the "Indiana parent corporation" of Anthem for purposes of Indiana law. Upon the effective date of the Plan of Conversion, the Parent Company will complete an initial public offering (the IPO) of shares of Parent Company Common Stock for cash.

Summary of Facts and Representations

Description of the Parties

1. Anthem, which maintains its principal place of business in Indianapolis, Indiana, is organized as a mutual insurance company under the laws of the State of Indiana. Together with its subsidiaries (collectively, the Company), Anthem is one of the nation's largest health benefits companies. As an independent licensee of the Blue Cross Blue Shield Association (BCBSA), the Company offers BCBSA-branded products throughout Indiana, Ohio, Kentucky, Connecticut, Colorado, Nevada, New Hampshire and Maine. The Company provides health care coverage or services to over 7 million people in these states. As of December 31, 2000, Anthem had approximately \$5.7 billion in assets, \$3.8 billion in liabilities and surplus of \$1.9 billion. Anthem's current financial strength ratings are as follows: A.M. Best Company, Inc., A-; Standard & Poor's Rating Service, A; Moody's Investors Service, Inc., A3; and Fitch, Inc., A+.

2. The Company offers a diversified mix of managed care products, including health maintenance organizations, preferred provider organizations, and point of service plans, as well as traditional indemnity products. In addition, the Company offers a full range of managed care services and partially-insured products for self-funded employer Plans, such as underwriting services, stop loss insurance, actuarial services, network access, medial cost management, claims processing, and administrative services. In nearly all cases, the Company provides administrative, recordkeeping and other support services to Plans that are funded by Anthem insurance policies. These services include claims processing, premium collection, billing, reporting, and managed care services (including medical case management and utilization review services). Moreover, the Company provides specialty products, including group life, disability, prescription management, workers compensation, administrative and claims management services, dental

and vision care services, and allows customers to choose from an array of funding alternatives.

3. As a mutual insurance company, Anthem does not have any stockholders. Instead, Anthem has members who are deemed holders of certain insurance policies and contracts which it has issued. As members, the policyholders have the right to vote in the election of Anthem's Board of Directors and to vote on any proposition that the Board submits to a vote of the members in accordance with Indiana law, including the right to vote on the conversion of Anthem from a mutual insurance company to a stock company. The voting rights of Anthem members are equal, with each member having only one vote regardless of the size, type, or number of policies owned by such member. As discussed herein, Anthem's members also have the right to vote and to receive consideration in the event of the Anthem's demutualization.

Unlike most insurance companies, Anthem generally treats individual certificate holders under its group contracts as members instead of as group contract holders. Thus, in most cases, employers that fund their Plans with Anthem group contracts are not members of Anthem. Instead, the participants in these Plans are the members. Currently, Anthem has approximately 1 million members who hold certificates under either group plans or individual policies. Of these members, approximately 650,000 have received their membership interests through participation in Plans.

However, in a small number of cases, Plan group contract holders, which are generally employers rather than certificate holders, are considered members of Anthem. The subject cases have arisen out of mergers into Anthem of three Blue Cross Blue Shield (BCBS) licensees, which were organized as mutual insurance companies prior to the mergers.¹⁴ Currently, Anthem has approximately 7,000 members that are

¹⁴ Specifically, the Kentucky BCBS licensee (Southeastern Mutual Insurance Company) merged into Anthem in 1993. Community Mutual Insurance Company, an Ohio Blue Cross Blue Shield licensee, merged into Anthem in 1995. The Connecticut BCBS licensee (Blue Cross & Blue Shield of Connecticut, Inc.) merged into Anthem in 1997. These "grandfathered" members are group policyholders that (a) held contracts issued by the Kentucky, Ohio and Connecticut companies before those companies merged into Anthem and (b) have continuous coverage that meets specific requirements through the Company since the merger. These group contract holders were "grandfathered" as members to preserve their membership interests in the merging mutual companies. For any new group contracts issued with respect to Plans by one of those companies since its merger with Anthem, however, the group contract holders, are members of Anthem.

Plan group policyholders. (These are generally employers that hold the policies to provide benefits to their employees.)

4. Anthem Holdings or the "Parent Company" will be a corporation organized and existing under the Indiana Business Corporation Law. Prior to the conversion, the Parent Company will be a wholly owned subsidiary of Anthem. Upon the conversion of Anthem to a stock company, the Parent Company will serve as the "Indiana parent corporation" of Anthem for purposes of Indiana law. Upon the effective date of the Plan of Conversion, the Parent Company will complete an IPO of shares of Parent Company Common Stock for cash.¹⁵ It is anticipated that the Common Stock will be traded on the New York Stock Exchange.

The Anthem Conversion

5. On February 1, 2001, Anthem's Board of Directors announced the appointment of a special committee to work with Anthem's management to develop a Plan of Conversion, which with Amended and Restated Articles of Incorporation, is expected to be approved by the Board of Directors during June 2001. The principal purpose of the conversion is to benefit Anthem's members and other customers by enhancing Anthem's financial strength and flexibility and by distributing value to its Eligible Members in the form of marketable common stock issued by Anthem Holdings (i.e., the Parent Company) or Cash, in exchange for such member's otherwise illiquid policyholders' membership interests. Thus, Eligible Members will realize economic value from their membership interests that is not currently available to them as long as Anthem remains a mutual company. However, Anthem's conversion will not in any way change premiums or reduce or change insurance or other health care benefits or contractual obligations of Anthem to its members and policyholders. Further, the conversion will provide Anthem with access to additional capital that is not available under the mutual form of corporate organization.

The Plan of Conversion is subject to the approval of the Commissioner, the members of Anthem who are entitled to

¹⁵ At the present time, Anthem does not know the number of shares of Parent Company Common Stock that will be issued at the IPO. Anthem states that the exact number will not be known for some time because the number of shares will depend, among other factors, on market conditions at the time of the IPO (which is not expected to occur until late October or early November 2001).

vote on the Plan of Conversion,¹⁶ the other conditions set out in the Plan of Conversion, and other applicable state and federal regulatory approvals. Market conditions, regulatory requirements, and business considerations may also influence the final sequence of events.

6. Accordingly, Anthem requests, on behalf of itself, its affiliates, and its future Parent Company, an administrative exemption from the Department that will permit Eligible Members which are Plans and Plan Participants to receive Common Stock issued by the Parent Company or Cash in exchange for their existing membership interests in Anthem. Anthem represents that although it and its affiliates generally provide administrative, record-keeping, or other support services to Plans in connection with the insurance policies and contracts sold to such Plans, the sales of the insurance products do not, in and of themselves, cause the insurer to be considered a party in interest. However, Anthem understands that, because of the services it or its affiliates provide to Plans that are funded through its insurance products, it or its affiliates may be considered parties in interest or even fiduciaries.

Therefore, Anthem represents that the receipt of Parent Company Common Stock or Cash by a Plan or a Plan Participant can be viewed as a prohibited sale or exchange of property between the insurer (or the Parent Company) and the Plan or the Plan Participant, or it can be construed as a transfer or use of plan assets by or for the benefit of a party in interest in violation of section 406(a)(1)(A) and (D) of the Act. Therefore, Anthem has requested administrative exemptive relief from the Department in order to avoid any prohibited transactions that may occur inadvertently in the course of the conversion.

The requested exemption is based upon a number of procedural and substantive protections that Indiana insurance law provides to all policyholders of a mutual insurance company that is undergoing conversion to a stock company. In this regard, all Eligible Members that are Plans (and Plan Participants) with respect to which Anthem or any of its affiliates is a party in interest will participate on the same basis and within their class groupings as all Eligible Members that are not Plans or Plan Participants.

Anthem represents that neither it, the Parent Company, their subsidiaries, nor any of the employees, officers, and directors of Anthem, the Parent Company, or their subsidiaries are or will be Eligible Members under any Plan established or maintained by Anthem, the Parent Company, or their subsidiaries for the benefit of their employees, officers or directors. Therefore, Anthem does not request that the exemption apply to such Plans.

Indiana Insurance Law

7. Anthem anticipates that the following steps of the conversion will occur pursuant to the Plan of Conversion:

- Anthem will convert from a mutual company to a stock company under Indiana law and will issue to the Parent Company all of its outstanding Anthem capital stock.
- All membership interests in Anthem will be extinguished, and, in exchange, Eligible Members will receive shares of Parent Company Common Stock or Cash.
- The capital stock of the Parent Company owned by Anthem will be canceled and cease to exist.
- The effective date of the Plan of Conversion will be the closing date of the Parent Company's IPO.
- Eligible Members may elect to receive Parent Company Common Stock or Cash. The Parent Company will issue shares of Parent Company Common Stock to Eligible Members who affirmatively elect to receive shares of Common Stock. The Parent Company will pay Cash to Eligible Members who are deemed to elect Cash because they fail to make a stock election or who are required to receive Cash because their mailing address, as shown on Anthem's records, is outside of the United States or because their receipt of stock would, in Anthem's judgment, fail to comply with the securities registration requirements (or applicable exemptions) of the Eligible Member's state of domicile. To the extent that sufficient Cash is not available to pay Cash to all of these Eligible Members, the Parent Company will pay Cash first to those Eligible Members who are required to receive Cash because of their domicile and then to those Eligible Members with the smallest share allocations. Once the amount of Cash available is exhausted, the remaining Eligible Members will be issued shares of Parent Company Common Stock.

Procedural Requirements Under Indiana Demutualization Law

8. Indiana Demutualization Law (i.e., Indiana Code 27-15 *et seq.*), establishes

an approval process for the demutualization of domestic mutual insurance companies. In this regard, the conversion of a mutual insurance company to a stock company must be initiated by the board of directors of the mutual insurance company. The board of directors may approve a plan of conversion only upon a finding that the proposed conversion is in the best interests of the converting mutual insurance company, the Eligible Members, and the other policyholders of the company.

Once the plan of conversion is approved by the company's board of directors, the company must submit an application for the approval of the plan of conversion to the Commissioner. The application must contain the following information:

- The plan of conversion and a certificate of the secretary of the converting mutual insurance company certifying the approval of the plan by the company's board of directors.
- A statement of the reasons for the proposed conversion and why the conversion is in the best interests of the converting mutual insurance company, the Eligible Members, and the other policyholders. The statement must include an analysis of the risks and benefits to the converting mutual insurance company and its members of the proposed conversion and a comparison of the risks and benefits of the conversion with the risks and benefits of reasonable alternatives to a conversion.
- A five year business plan and at least two years of financial projections of the former mutual insurance company and any parent company.
- Any plans that the former mutual insurance company or any parent company may have to:
 - Raise additional capital through the issuance of stock or otherwise;
 - Sell or issue stock to any person, including any compensation or benefit plan for directors, officers, or employees under which stock may be issued;
 - Liquidate or dissolve any company or sell any material assets;
 - Merge or consolidate or pursue any other form of reorganization with any person; or
 - Make any other material change in investment policy, business, corporate structure, or management.
- Any plans for delayed distribution of consideration.
- A plan of operation for a closed block,¹⁷ if a closed block is used for the

¹⁶The members eligible to vote will be the members of Anthem as of the date Anthem's Board of Directors approves the Plan of Conversion. That date will be the record date for the special meeting of the members that will be held for purposes of voting on the Plan of Conversion.

¹⁷Indiana Demutualization Law defines the term "closed block" to mean an allocation of assets for

preservation of the reasonable dividend expectations of Eligible Members and other policyholders with policies that provide for the distribution of policy dividends. (Anthem represents that it does not have any policies for which there is a reasonable expectation of dividends and, accordingly, a closed block will not be established.)

- Copies of the amendment to the articles of incorporation proposed by the board of directors and the proposed bylaws of the former mutual insurance company and copies of the existing and any proposed articles of incorporation and bylaws of any parent company.

- A list of all individuals who are or have been selected to become directors or officers of the former mutual insurance company and any parent company, or the individuals who perform or will perform duties customarily performed by a director or officer, as well as specific biographical information about those individuals.

- A fairness opinion addressed to the board of directors of the converting mutual, from a qualified, independent financial advisor, asserting (a) that the provision of stock, cash, policy benefits, or other forms of consideration upon the extinguishing of the converting mutual's membership interests under the plan of conversion and the amendment to the articles of incorporation is fair to the Eligible Members, as a group, from a financial point of view; and (b) whether the total consideration under clause (a) is equal to or greater than the surplus of the converting mutual.

- An actuarial opinion as to the following:

- The reasonableness and appropriateness of the methodology or formulas used to allocate consideration among Eligible Members, consistent with the statute.

- The reasonableness of the plan of operation and the sufficiency of the assets allocated to the closed block, if a closed block is used for the preservation of the reasonable dividend expectations of Eligible Members and other policyholders with policies that provide for the distribution of policy dividends. (Anthem represents that it does not have any policies for which there is a reasonable expectation of dividends and again emphasizes that, a closed block will not be established.)

- Any additional information, documents, or materials that the

converting mutual insurance company determines to be necessary.

- Any other additional information, documents, or materials that the Commissioner requests in writing.

9. Upon determining that the application is complete, the Commissioner must conduct a public hearing on the plan of conversion. The purpose of the hearing is to receive comments and information to aid the Commissioner in considering and approving or disapproving the application for approval of the plan of conversion. Persons wishing to make comments and submit information may submit written statements before or at the public hearing and may also appear and be heard at the public hearing. The converting mutual insurance company must provide at least thirty days prior written notice of the hearing to its members and policyholders. The converting mutual insurance company must also cause notice of the public hearing to be published in a newspaper of general circulation in the city where the principal office of the converting mutual insurance company is located, in Indianapolis and in any other city specified by the Commissioner. Both the written notice and the form and content of the published notice must be pre-approved by the Commissioner.

The Commissioner must fully consider any comments received at the public hearing consistent with Indiana's Administrative Rules and Procedures Act before making a determination on the Plan of Conversion. After the public hearing, the Commissioner must approve the application and permit the conversion under the plan of conversion if the Commissioner finds the following:

- That the amount and form of consideration is fair in the aggregate and to each member class;

- That the Plan of Conversion and the amendment to the articles of incorporation:

- Comply with the Indiana Demutualization Law and other applicable laws;

- Are fair, reasonable, and equitable to the Eligible Members; and

- Will not prejudice the interests of the other policyholders of the converting mutual insurance company; and

- That the total consideration provided to Eligible Members upon the extinguishing of the converting mutual's membership interests is equal to or greater than the surplus of the converting mutual. A person who is aggrieved by an agency action of the Commissioner under the Indiana Demutualization Law may petition for judicial review of the action.

Indiana Demutualization Law also permits the Commissioner to employ accountants, actuaries, attorneys, financial advisors, investment bankers and other experts that are necessary to assist the Commissioner in reviewing all matters under the Indiana Demutualization Law.

In addition to receiving Commissioner approval, the plan of conversion must be approved by the converting mutual insurance company's policyholders. The policyholders must be provided with notice of the meeting called for the purpose of voting on the Plan of Conversion. The converting mutual insurance company must also provide explanatory information about the conversion to policyholders. The form of the meeting notice, explanatory information, and any proxy solicitation materials must be approved in advance by the Commissioner. The Plan of Conversion must be approved by at least two-thirds of the policyholders voting at the meeting.¹⁸

10. As noted in Representation 5, Anthem's Board of Directors approved Anthem's Plan of Conversion on June 18, 2001. As for the policyholder meeting, Anthem indicates that the notice is tentatively scheduled to be mailed beginning in mid- to late August 2001. When the meeting is held, approximately 1 million Eligible Members (including Plans and Plan Participants), will be able to vote on the Plan of Conversion. However, each Eligible Member will be entitled to only one vote. Anthem expects that the Commissioner will approve the Plan of Conversion (after a public hearing in September 2001 by late October 2001, and that the demutualization will become effective in late October (following Commissioner and member approvals) or during November 2001, although delays in the regulatory process could further affect these dates.

¹⁸ It should be noted that Indiana law imposes stringent time constraints on the distribution of demutualization consideration to policyholders. Specifically, unless a very narrow exception applies, which is authorized by the Commissioner, all demutualization consideration must be distributed within six months after the insurer's conversion to a stock company. The exception, which Anthem states will not apply to the subject exemption request, would require that a claim be filed by, or on behalf of, one or more Anthem policyholders. The claim must assert, to the satisfaction of the Commissioner, that (a) irreparable harm will result if distribution occurs before the Department issues the requested exemption, and (b) a trust should be established by the insurer to hold the demutualization consideration until the exemption is granted. (For a discussion of the trust requirement imposed under Indiana Demutualization Law, see Representation 16 in the notice of proposed exemption for Indianapolis Life Insurance Company, 66 FR 7802, January 25, 2001, at 7807.)

a defined group of in force policies which, together with the premiums of those policies and related investment earnings, are expected to be sufficient to maintain the payments of guaranteed benefits, certain expenses, and continuation of the current dividend scale on the closed block, if experience does not change.

Distributions to Anthem's Members

11. As noted above, Anthem's Plan of Conversion provides for Eligible Members to receive Common Stock of the Parent Company or Cash as consideration for giving up their membership interest in the mutual insurance company, which interests will be extinguished as a result of the demutualization.¹⁹ Eligible Members may elect to receive Parent Company Common Stock or Cash.²⁰ The Parent Company will issue shares of Parent Company Common Stock to Eligible Members who affirmatively elect to receive such stock. The Parent Company will pay Cash to Eligible Members who are deemed to elect Cash because their mailing address, as shown on Anthem's records, is outside of the United States or the receipt of stock, would, in Anthem's judgment, fail to comply with the securities registration requirements (or applicable exemptions) of the Eligible Member's state of domicile, or they fail to make a stock election. To the extent that sufficient Cash is not available to pay Cash to all of these Eligible Members, the Parent Company will pay Cash first to those Eligible Members who are required to receive Cash because of their domicile and then to those Eligible Members with the smallest share allocations. Once the amount of Cash available is exhausted, the remaining Eligible Members will be issued shares of Parent Company Common Stock. The amount of Cash will be determined by multiplying the

¹⁹ Because Anthem does not issue any policies to or in connection with individual retirement accounts, tax-deferred annuities, or tax-qualified plans, no consideration will be paid in the form of "policy credits."

²⁰ "The proceeds of the demutualization will belong to the Plan if they would be deemed to be owned by the Plan under ordinary notions of property rights. See ERISA Advisory Opinion 92-02A, January 17, 1992 (assets of plan generally are to be identified on the basis of ordinary notions of property rights under non-ERISA law). It is the view of the Department that, in the case of an employee welfare benefit plan with respect to which participants pay a portion of the premiums, the appropriate plan fiduciary must treat as plan assets the portion of the demutualization proceeds attributable to participant contributions. In determining what portion of the proceeds are attributable to participant contributions, the plan fiduciary should give appropriate consideration to those facts and circumstances that the fiduciary knows or should know are relevant to the determination, including the documents and instruments governing the plan and the proportion of total participant contributions to the total premiums paid over an appropriate time period. In the case of an employee pension benefit plan, or where any type of plan or trust is the policyholder, or where the policy is paid for out of trust assets, it is the view of the Department that all of the proceeds received by the policyholder in connection with a demutualization would constitute plan assets." See ERISA Advisory Opinion 2001-02A, February 15, 2001.

number of shares of Common Stock allocated to the Eligible Member by the price at which such Common Stock is being offered to the public in the IPO.

The total consideration to be distributed to Eligible Members will be equal in value to a specified number of shares of Common Stock as determined by the Board of Directors. As required by Indiana law, this value is expected to be at least equal to the amount of Anthem's statutory surplus. Each Eligible Member will be allocated a fixed component of consideration, consisting of 21 shares of Parent Company Common Stock. The remaining shares of Common Stock will then be allocated to the Eligible Members based on the actuarial contribution that each Eligible Member has made to Anthem's statutory surplus.

After shares of Common Stock have been allocated, actual consideration will be paid as soon as practicable after the conversion date to Eligible Members. The decision as to the form of consideration to be received in exchange for membership interests in Anthem will be made by one or more independent Plan fiduciaries in the case of a Plan, or if applicable, by a Plan Participant. Under either circumstance, neither Anthem nor its affiliates will provide the Plan fiduciary or the Plan Participant with "investment advice" within the meaning of 29 CFR 2510.3-21(c) of the Act or exercise investment discretion with respect to such decision.

Lock-Up Period and Commission-Free Sales and Purchase Program

12. To allow Anthem to create and maintain an orderly market for, and improve the marketability of Parent Company Common Stock after the IPO, Anthem will institute a 6 month "lock-up" period. The lock-up period will also assure new investors who buy shares in the IPO that the Eligible Members who are given shares in the demutualization will not sell a large block of Parent Company Common Stock after the IPO. During the lock-up period, Parent Company Common Stock issued to an Eligible Member will be uncertified. The Eligible Member will have the right to vote and to receive dividends and any other distributions related to the stock. However, Eligible Members will not be able to liquidate their stock holdings until the lock-up period is over. The lock-up period will continue for 6 months after the effective date of the Plan of Conversion. As soon as practicable after the expiration of the lock-up period, Eligible Members will be entitled to receive a certificate for the Parent Company Common Stock that is registered in their name on the company

books. Upon the expiration of the lock-up period, the Parent Company Common Stock will be freely-tradeable and may be disposed of on a stock exchange or in any other manner the Eligible Member chooses, in compliance with securities laws.

13. Following the lock-up period, Anthem will establish a commission-free sales and purchase program, although the exact contours of such program have not yet been clearly-defined. Anthem, does, however, expect that the program will commence no sooner than the first business day after the 6 month anniversary, and no later than the last business day before the 30 month anniversary, of the effective date of the demutualization. Under the program, each shareholder owning 99 or fewer shares of Parent Company Common Stock on the record date of the program will have the opportunity, at any time during the term of the program, to sell all, but not less than all, of those shares in one transaction at prevailing market prices without paying brokerage or other similar expenses. Simultaneously and in conjunction with the commission-free sales program, Anthem will also offer each shareholder eligible to participate in such program, the opportunity to purchase additional shares of Parent Company Common Stock, as necessary, in order that the shareholder may increase such share holdings to 100 share round lots without paying brokerage commissions or other similar expenses.

14. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Plan of Conversion will be implemented pursuant to stringent procedural and substantive safeguards imposed under Indiana law and supervised by the Commissioner.

(b) The Commissioner will only approve the Plan of Conversion following a determination that, among other things, such Plan is fair, reasonable, and equitable to all of Anthem's Eligible Members (including Plans and Plan Participants).

(c) One or more independent fiduciaries of each Plan that is an Eligible Member on the date the Plan of Conversion is adopted, and each Plan Participant/certificate holder who is an Eligible Member on the date the Plan of Conversion is adopted, will have an opportunity to vote whether to approve the terms of the Plan of Conversion and will also be solely responsible for any decisions that may be permitted under the Plan of Conversion regarding the form of consideration to be received in

return for their respective membership interests.

(d) Because of all of the protections afforded to Plans and Plan Participants under Indiana law, no ongoing involvement by the Department will be required in order to safeguard the interests of Eligible Members that are Plans or Plan Participants.

(e) The Plan of Conversion will enable Plans or Plan Participants to convert their illiquid membership interests in Anthem into Parent Company Common Stock or Cash.

(f) Anthem's insurance contracts will remain in force and will not be affected by the Plan of Conversion, and there will be no changing of premiums or compromising any of the benefits, values, guarantees, or other policy obligations of Anthem to its policyholders and contractholders.

(g) Each Eligible Member that is a Plan or a Plan Participant will have an opportunity to comment on the Plan of Conversion and, if such Plan or Plan Participant is a voting member, to vote for or against the Plan of Conversion after full disclosure by Anthem of the terms of the Plan of Conversion.

Notice to Interested Persons

Pursuant to the requirements of Indiana Demutualization Law, during August, 2001, Anthem will provide its members, including Plans and Plan Participants, with an advance disclosure document relating to its conversion to a stock company. The document, known as "The Member Information Statement" (or MIS) will include, among other things, (a) a notice of the date, time, and place for voting on the Plan of Conversion; (b) a notice of the time, place, and purpose of a public hearing on the Plan of Conversion, at which members can express their views on the Plan of Conversion; (c) detailed information regarding Anthem's Plan of Conversion; and (d) business and financial information about Anthem and the Parent Company. The MIS will be provided in a form and manner approved by the Commissioner and will be sent to over 1 million Anthem members, including Plans and Plan Participants who hold certificates issued pursuant to their respective Plans. Anthem has deemed such Plans and Plan Participants to be "interested persons" for purposes of this exemption.

In connection with the exemption request, Anthem wishes to provide notice of the proposed exemption in a manner that takes into account (a) the costs and administrative burdens of providing a separate notice of the proposed exemption to all affected

members; (b) the notices required, and member protections accorded, under state law; and (c) the limited scope of exemptive relief that it has requested. In this regard, Anthem has incorporated the Department's required supplemental statement describing the exemption proceeding (see 29 CFR 2570.43) in a slightly modified form in the MIS under the special heading "Notice of Application for Prohibited Transaction Exemption" (hereinafter, the MIS Notice). The MIS Notice is intended to inform affected members of the anticipated publication of the proposed exemption in the **Federal Register** and their right to comment on the proposal. The MIS Notice states that an affected member may call a toll-free number maintained by Anthem (1-866-299-9628) or write to Anthem if the member wishes to be provided with a copy of the proposed exemption when it is published in the **Federal Register**. In addition, the MIS Notice indicates that the proposed exemption will be posted on Anthem's website (www.anthem.com) after publication.

Any Plan or Plan Participant requesting that Anthem provide a copy of the proposed exemption will be sent a copy of such document within 15 days of its publication in the **Federal Register**. The copy of the proposed exemption will be accompanied by another version of the supplemental statement, as required under the Department's regulations. In addition, the proposed exemption, together with a copy of the supplemental statement, will be posted on Anthem's website within 15 days of publication. Anthem will give Plan members 45 days to file comments with the Department. The comment period will commence on the date the proposed exemption is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the

interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of July, 2001.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.*

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