DATE

The Honorable \_\_\_\_\_

The United States House of Representatives

Washington, DC 20515

The Honorable \_\_\_\_\_

The United States Senate

Washington, DC 20510

Dear Congressman/Senator \_\_\_\_:

I am writing to thank you for your leadership on the Tax Cuts and Jobs Act of 2018 and to ask for your support of efforts to clarify that the tax relief extended to American businesses and jobs producers was also intended for insurance producers and intermediaries organized as pass-through entities. The legislation left room for regulatory interpretation as to whether or not insurance producers and intermediaries organized as pass-through entities would be able to claim the tax relief afforded to other pass-through entities. We firmly believe that extending tax relief to the insurance producer community was the intention of this Congress.

At first glance, the legislation as written would appear to put my company smack in the middle of a very gray zone when it comes to identifying our eligibly for the tax relief. IRC section 199a states that service industry pass-through entities engaged in “brokerage services” are excluded from the tax relief for pass-through entities, while the same section also states that companies engaged in “the business of insurance” are in fact eligible for the relief. Dialing in on the definitions for “business of insurance” and “brokerage services,” it becomes clear that insurance producers and intermediaries are in fact engaged in the legal definition of the business of insurance. We believe this for the following reasons:

1. The regulatory regime for insurance producers is separate from the governing regime for broker-dealers (the common legal reference meant by the term “brokers”) and clearly treats producers as insurance businesses for licensing, examination, and compensation purposes;

2. Unlike broker-dealers, insurance producers have a unique legal agency relationship with the insurance companies (i.e., product manufacturers) for which they sell products; and

3. The plain-language meaning and everyday connotation of “brokerage services” is generally understood to refer to broker-dealers and investment services, not insurance.

In short, the sale and servicing of insurance is part of the “business of insurance,” and therefore should be excluded from the definition of a “specified services trade or business” in any regulations or guidance for purposes of section 199A. As you know, the rewrite of the tax code also now redirects my company’s accounting for expenses, deductions, and various other line items that could result in a net tax increase if the IRS does not rightly recognize Congresses intent on Section 199a. It would be disappointing, to say the least, to experience a net tax increase because of a poor legal interpretation while my competitors enjoyed a slice of the $1.5 trillion of tax relief. We therefore need your help encouraging regulators to rightly recognize the role my company plays in the insurance industry.

Thank you for your leadership on the Tax Cuts and Jobs Act of 2018. If you have any questions, please feel free to contact me at your convenience.

Best,