

National Interstate CORP

Form SC TO-T/A

March 07, 2014

**As filed with the Securities and Exchange Commission on March 7, 2014.**

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**SCHEDULE TO  
Amendment No. 9  
Tender Offer Statement under Section 14(d)(1) or 13(e)(1) of the Securities Exchange Act of 1934**

**NATIONAL INTERSTATE CORPORATION**  
Name of Subject Company (issuer))

**GREAT AMERICAN INSURANCE COMPANY**  
(offeror)  
a wholly owned subsidiary of  
**AMERICAN FINANCIAL GROUP, INC.**  
Names of Filing Persons (other person(s))

**Common Stock, \$0.01 Par Value Per Share**  
(Title of Class of Securities)

**63654U100**

(CUSIP Number of Class of Securities)

**Mark A. Weiss**  
**Assistant General Counsel**  
**American Financial Group, Inc.**  
**301 East Fourth Street, 27<sup>th</sup> Floor**  
**Cincinnati, Ohio 45202**  
**Telephone: (513) 579-2520**

(Name, address, and telephone numbers of person authorized to receive notices and communications on behalf of filing persons)

*With a copy to:*  
**F. Mark Reuter**  
**Keating Muething & Klekamp PLL**  
**1 East Fourth Street, Suite 1400**  
**Cincinnati, Ohio 45202**  
**Telephone: (513) 579-6469**

#### **CALCULATION OF FILING FEE**

**Transaction Valuation\* Amount Of Filing Fee\*\***

\$285,637,980.00            \$36,790.18

Estimated for purposes of calculating the amount of the filing fee only. The calculation assumes the purchase of all outstanding shares of common stock, par value \$0.01 per share (the "Shares"), of National Interstate Corporation, an Ohio corporation, other than Shares owned by American Financial Group, Inc. ("AFG") and its subsidiaries, at a purchase price of \$30.00 per Share, net to the seller in cash. As of October 30, 2013, there were 19,721,266 Shares outstanding, of which 10,200,000 Shares are owned by subsidiaries of AFG. As a result, this calculation assumes the purchase of 9,521,266 Shares.

\*\* The amount of the filing fee is calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, by multiplying the transaction value by \$0.0001288.

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Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

Amount Previously Paid: \$36,790.18      Form or Registration No.: Schedule TO  
Filing Party: American Financial Group, Inc.      Date filed: February 18, 2014

Check box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes to designate any transactions to which this statement relates:

- |                          |   |  |
|--------------------------|---|--|
| <input type="checkbox"/> | R | third party tender offer subject to Rule 14d-1.  |
| <input type="checkbox"/> | £ | issuer tender offer subject to Rule 13e-4.       |
| <input type="checkbox"/> | R | going-private transaction subject to Rule 13e-3. |
| <input type="checkbox"/> | £ | amendment to Schedule 13D under Rule 13d-2.      |

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- |                          |   |  |
|--------------------------|---|--|
| <input type="checkbox"/> | £ | Rule 13e-4(i) (Cross-Border Issuer Tender Offer      |
| <input type="checkbox"/> | £ | Rule 14d-1(d) (Cross-Border Third Party Tender Offer |

## INTRODUCTION

This Amendment No. 9 amends and supplements the Tender Offer Statement filed on Schedule TO (this “Schedule TO”) which relates to the tender offer by Great American Insurance Company (“**Purchaser**”), an Ohio corporation and a wholly-owned subsidiary of American Financial Group, Inc., an Ohio corporation (“**AFG**”), to purchase all the outstanding shares of common stock, par value \$0.01 per share (the “**Shares**”), of National Interstate Corporation, an Ohio corporation (“**National Interstate**”), other than Shares owned by Purchaser, at a purchase price of \$30.00 per Share, net to the seller in cash, without interest and less any applicable withholding of taxes, upon the terms and subject to the conditions set forth in the Amended and Restated Offer to Purchase, dated February 21, 2014 (as may be amended or supplemented from time to time, the “**Offer to Purchase**”), a copy of which is attached to this Schedule TO as Exhibit (a)(1)(vii), and the related Amended and Restated Letter of Transmittal (as may be amended or supplemented from time to time, the “**Letter of Transmittal**”), a copy of which is attached to this Schedule TO as Exhibit (a)(1)(viii) (which, as amended or supplemented from time to time, together constitute the “**Offer**”).

The information contained in the Solicitation/Recommendation Statement on Schedule 14D-9 filed by National Interstate with the Securities and Exchange Commission (“**SEC**”) on February 19, 2014, as amended on March 3, 2014 (as may be amended and supplemented from time to time, the “**Schedule 14D-9**”), and in the Offer to Purchase, including all schedules and annexes thereto, is hereby expressly incorporated herein by reference in response to all the items of this Schedule TO, including, without limitation, all of the information required by Schedule 13E-3 that is not included in or covered by the items in Schedule TO, and is supplemented by the information specifically provided herein.

For reference, the Offer to Purchase is amended and supplemented as follows:

The following paragraph is added as new fifth and sixth paragraphs on page 11 under “Special Factors—Section 1. 1. Background” and new second and third full paragraphs on page 43 under “The Offer—Section 13. Certain Legal Matters; Regulatory Approvals”:

“On March 6, 2014, Alan Spachman filed Amendment No. 1 to his Schedule 14D-9 in which Mr. Spachman disclosed a letter sent by Mr. Spachman to the Board of Directors of AFG on March 5, 2014 regarding the Offer (the “**Spachman Letter**”) and the filing by Mr. Spachman on March 5, 2014 of a lawsuit captioned *Alan R. Spachman vs. Great American Insurance Company, et. al.*, No. 5:14 CV-00509 in the United States District Court for the Northern District of Ohio, naming as defendants: Purchaser; AFG; National Interstate; and the Defendant Directors (the “**Spachman Action**”).

The complaint in the Spachman Action alleges, among other things, that the Offer is a coercive tender offer as the result of a flawed process, misleading disclosures, an unfair price, and AFG and Purchaser having the benefit of highly material inside information. The complaint in the Spachman Action further alleges that the defendants have engaged in violations of the federal securities laws, violation of Ohio’s Control Share Acquisition statute and breaches of fiduciary duty. Mr. Spachman is seeking injunctive relief. Also on March 5, 2014, Mr. Spachman filed a

memorandum of law in support of the motion for a temporary restraining order and preliminary injunction petitioning the court for a temporary restraining order and preliminary injunction prohibiting consummation of the Offer.

On March 6, 2014, AFG issued a press release regarding the Offer. Also on March 6, 2014, counsel to AFG responded to the Spachman Letter with a letter to counsel to Mr. Spachman (the “**AFG Letter**”). The AFG Letter is filed as Exhibit (a)(1)(xiv) hereto and incorporated herein by reference.”

**Item 12. Exhibits.**

- (a)(1)(i) Offer to Purchase, dated February 5, 2014 (incorporated by reference to the Schedule TO, filed on February 5, 2014).
- (a)(1)(ii) Letter of Transmittal (incorporated by reference to the Schedule TO, filed on February 5, 2014).
- (a)(1)(iii) Notice of Guaranteed Delivery (incorporated by reference to the Schedule TO, filed on February 5, 2014).
- (a)(1)(iv) Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to the Schedule TO, filed on February 5, 2014).
- (a)(1)(v) Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to the Schedule TO, filed on February 5, 2014).
- (a)(1)(vi) Summary Advertisement published in The New York Times on February 5, 2014 (incorporated by reference to the Schedule TO, filed on February 5, 2014).
- (a)(1)(vii) Amended and Restated Offer to Purchase, dated February 21, 2014 (incorporated by reference to the Schedule TO/A, filed on February 21, 2014).

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- (a)(1)(viii) Amended and Restated Letter of Transmittal (incorporated by reference to the Schedule TO/A, filed on February 21, 2014).
- (a)(1)(ix) Amended and Restated Notice of Guaranteed Delivery (incorporated by reference to the Schedule TO/A, filed on February 21, 2014).
- (a)(1)(x) Amended and Restated Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to the Schedule TO/A, filed on February 21, 2014).
- (a)(1)(xi) Amended and Restated Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to the Schedule TO/A, filed on February 21, 2014).
- (a)(1)(xii) Solicitation/Recommendation Statement on Schedule 14D-9, dated February 19, 2014 (incorporated by reference to the Schedule 14D-9 filed by National Interstate Corporation on February 19, 2014).
- (a)(1)(xiii) Fairness Opinion of Duff & Phelps, LLC, dated February 17, 2014 (incorporated by reference to Exhibit 99.(a)(12) to the Schedule 14D-9 filed by National Interstate Corporation on February 19, 2014).  
Solicitation/Recommendation Statement (Amendment No. 1) on Schedule 14D-9, dated March 3, 2014
- (a)(1)(xiv) (incorporated by reference to the Schedule 14D-9/A filed by National Interstate Corporation on March 3, 2014).
- (a)(1)(xiv) Letter from counsel to AFG to counsel to Alan R. Spachman, dated March 6, 2014.
- (a)(5)(i) Press Release, issued by AFG, dated February 5, 2014 (incorporated by reference to the Schedule TO, filed on February 5, 2014).
- (a)(5)(ii) Press Release, issued by AFG, dated February 18, 2014 (incorporated by reference to Amendment No. 1 to the Schedule TO, filed on February 18, 2014).
- (a)(5)(iii) Press Release, issued by AFG, dated March 3, 2014 (incorporated by reference to Amendment No. 7 to the Schedule TO, filed on March 3, 2014).
- (a)(5)(iv) Press Release, issued by AFG, dated March 6, 2014.
- (b) None.
- (d) None.
- (g) None.
- (h) None.

SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: March 7, 2014

AMERICAN  
FINANCIAL GROUP,  
INC.

By: /s/ Karl J. Grafe  
Name: Karl J. Grafe  
Title: Vice President

GREAT AMERICAN  
INSURANCE  
COMPANY

By: /s/ Stephen C. Beraha  
Name: Stephen C. Beraha  
Title: Assistant Vice  
President, Assistant  
General Counsel  
and Assistant  
Secretary