



LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES

SECOND REPORT TO CONGRESS

SEPTEMBER 28, 2007

**LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES
NAIC REPORT TO CONGRESS**

Report

Introduction	1
The Military Sales Practices Model Regulation	3
The Military Sales Online Reporting System	5
State Educational Outreach	5
Mission of the NAIC	6
Contact Information	6

Appendix A	State Progress Report	8
------------	-----------------------	---

Appendix B	Military Sales Practices Model Regulation	10
------------	-------------------------------------------	----

Appendix C	Red Flag Advisory	19
------------	-------------------	----

Appendix D	Letter to Base Commanders	20
------------	---------------------------	----

LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES NAIC REPORT TO CONGRESS

Introduction

The National Association of Insurance Commissioners (NAIC) is pleased to present its second report on the States' response to and compliance with the Military Personnel Financial Services Protection Act (Public Law 109-290) (the Act) signed into law by President Bush on September 29, 2006.

Pursuant to the mandate of Section 9 of the Act, the States have collectively worked with the Secretary of Defense to ensure the implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on and off military installations. Building upon the report submitted to Congress on March 29, 2007, this report provides an update and overview of the States' efforts in promoting uniform standards to protect members of the Armed Forces.

THE MILITARY SALES PRACTICES MODEL REGULATION

On June 4, 2007, four months after the circulation of the first exposure draft, the NAIC unanimously adopted the Military Sales Practices Model Regulation (the Model Regulation). The Model Regulation makes actionable certain acts and practices which until now have not specifically been declared to be false, misleading, deceptive or unfair under state trade practices statutes.¹ Many of the practices identified incorporate Department of Defense (DoD) solicitation rules. For example, the Model Regulation, by tracking DoD regulations, makes it a deceptive trade practice to solicit in barracks, day rooms and other restricted areas.

The Model Regulation also addresses Congressional concerns set out in Section 11 of the Act regarding suitability and product standards. In this regard, the Model Regulation makes it a deceptive or unfair trade practice to recommend the purchase of any life insurance product which includes a "side fund" to junior enlisted service members in pay grades E-4 and below, unless the insurer has reasonable grounds for

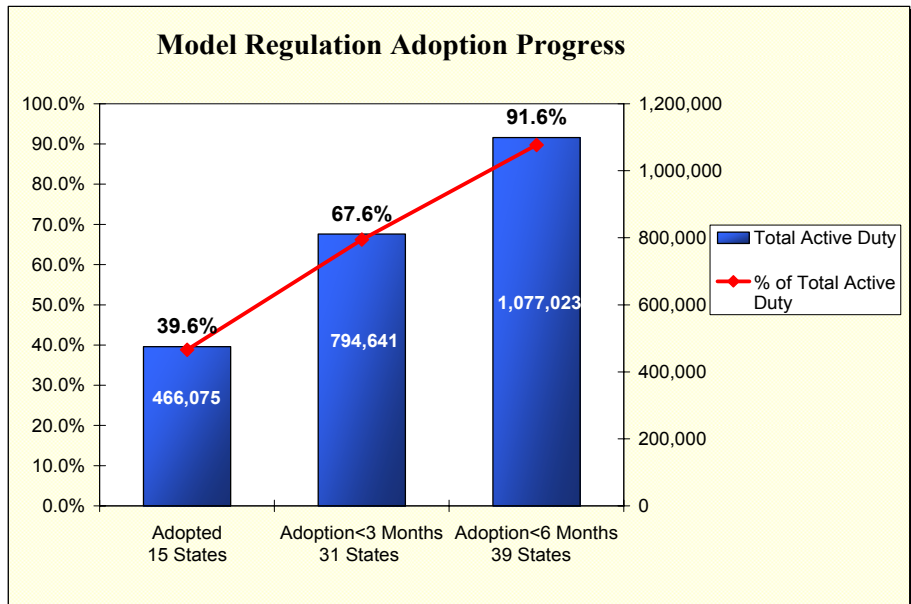
¹ This is not to say that these practices could not be administratively or judicially determined to be false, misleading, deceptive or unfair.

LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES NAIC REPORT TO CONGRESS

believing that the life insurance portion of the product, standing alone, is suitable.

As of September 28, 2007, 15 states with a combined total of 466,075 active duty military personnel have adopted the Model Regulation. By the end of calendar year 2007, another 15 states and the District of Columbia are expected to do so since they have already initiated rule-making proceedings, bringing the combined total for the year to 31 jurisdictions representing 794,641 active duty military personnel or 67.6% of CONUS (Continental United States) components.² For a complete state by state breakdown, please see Appendix A.

An additional seven states and Puerto Rico plan to begin rulemaking in either late September or October and have indicated that the Model Regulation will be adopted and in effect by the end of the first quarter 2008. The NAIC estimates that by March 31, 2008, a total of 39 jurisdictions will have adopted the Model Regulation representing 1,077,023 active duty military personnel or 91.6% of CONUS components.



² Includes Hawaii, Alaska and Puerto Rico.

LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES NAIC REPORT TO CONGRESS

The Model Regulation is under active review in seven states. Another six states have indicated to the NAIC that they either require legislative authority or approval in order to adopt the Model Regulation.

THE MILITARY SALES ONLINE REPORTING SYSTEM - LIFE INSURANCE AGENTS DISCIPLINARY DATABASE

On September 25, 2007, the NAIC implemented the Military Sales Online Reporting System (MSORS) as mandated by Section 12 of the Act. MSORS is a uniform system for collecting and distributing reports from insurers and federal and state government entities regarding disciplinary actions taken against agents soliciting or selling life insurance products on U.S. military installations anywhere in the world.

STATE EDUCATIONAL OUTREACH

The NAIC, in conjunction with the DoD, has developed a “Red Flag” advisory to alert members of the Armed Forces to sales practices typically used by agents selling a life insurance policy as an investment or savings plan. The states will forward the “Red Flag” advisory to military installations for publication and distribution in an effort to encourage reporting of predatory and deceptive sales practices to both the installation and the appropriate state insurance regulator.

The Military Sales Practices Model Regulation

The Military Sales Practices Model Regulation, as detailed in our first Report to Congress, March 29, 2007, sets forth standards to protect active duty service members of the Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair. The Model Regulation addresses the kinds of unlawful practices uncovered during multi-state investigations and tracks or incorporates relevant DoD solicitation regulations. The Model Regulation as adopted by the NAIC is attached as Appendix B.

Beyond requiring the disclosures mandated by Congress in the Act, the Model Regulation proscribes false, misleading,

LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES NAIC REPORT TO CONGRESS

deceptive and unfair sale practices both on and off of a military installation. More than 20 prohibited practices are identified, including: using fictitious bank accounts to establish premium payments; disparaging SGLI; offering gifts or incentives to lure junior service members to sales presentations; soliciting in barracks and other prohibited locations; soliciting without the installation commander's permission and implying sponsorship or sanction by the U.S. Government, the United States Armed Forces, or any state or federal or government agency.

The Model Regulation also addresses Congressional concerns set out in Section 11 of the Act regarding suitability and product standards. In this regard, the Model Regulation makes it a deceptive or unfair trade practice to recommend the purchase of any life insurance product which includes a side fund to junior enlisted service members in pay grades E-4 and below, unless the insurer has reasonable grounds for believing that the life insurance portion of the product, standing alone, is suitable. Under the Model Regulation, if a service member in these pay grades is enrolled in SGLI, the product is presumed unsuitable. The presumption can be overcome if the insurer, after performing a needs analysis, can show that the SGLI death benefit, together with consideration of other military survivors' benefits and other sources of income, is insufficient for meeting the applicant's insurable needs for life insurance.

The Model Regulation addresses product standards by requiring that the "side" or "accumulation" funds associated with life insurance policies credit interest from the date of deposit to the date of withdrawal and to permit withdrawals without penalty; that the applicant be provided with a schedule of effective rates of return based upon cash flows of the combined product; that any diversion or transfer of funds accumulated in the "side" or "accumulation" fund to pay, reduce or offset premiums be optional; and by prohibiting the sale of any life insurance policy having a war exclusion to an active duty service member.

The Military Sales Online Reporting System

On September 25, 2007, the NAIC implemented a new Web-based Military Sales Online Reporting System (MSORS) to satisfy the reporting requirement of Section 12 of the Act. Through MSORS, states have a centralized and uniform system to receive reports from insurers, and federal and state entities regarding disciplinary actions taken against persons that solicit or sell life insurance products on U.S. military installations anywhere in the world. In connection with the new Web-based interface, the NAIC has modified its existing databases to permit storage and sharing of this data among all state insurance departments and the DoD.

State Educational Outreach

State insurance departments are reaching out to military installations by establishing personal contacts, sending staff to conduct educational seminars on insurance, distributing complaint forms, and developing publications specifically for service members. These efforts are required because members of the Armed Forces rarely file complaints about abusive life insurance sales practices with state regulators. This contrasts sharply with the findings of insurance department staff and the Government Accountability Office at installations they have visited, and in examples relayed by personnel at military installations in several states. Reasons for this disparity are many: the youth of the targeted service members; inexperience in financial matters; busy schedules; rapid deployment out of the area in which the sale took place; not wanting to call attention to themselves; and simple embarrassment at being deceived.

Predictably, junior enlisted service members often perceive the insurance agent as a figure of authority and place their trust in the agent's advice. Many of these agents are former service members. Often, service members do not realize they have purchased a life insurance policy until months, or even years, after the sale takes place.

In an effort to increase service members' awareness, the NAIC, in conjunction with the DoD, has developed and will distribute a "Red Flag" advisory that describes deceptive life insurance marketing practices. The advisory encourages service members who have encountered deceptive sales practices to contact their

LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES NAIC REPORT TO CONGRESS

Financial Readiness Office or state insurance regulator for assistance. Appendix C.

The NAIC has drafted a model “Commissioner’s Letter” that may be used to announce the Model Regulation to installation commanders as it becomes effective in the various jurisdictions. The letter is an introduction to the Commander with an offer to work together to put an end to abusive life insurance sales practices. The letter is to include a copy of the adopted regulation. Appendix D.

The “Red Flag” advisory, “Commissioner’s Letter” and other ongoing outreach projects are collaborative efforts between the NAIC and the DoD to ensure that when a member of the Armed Forces purchases a life insurance product, it is an informed purchase, addresses a real need at a fair price and, most importantly, that the service member is treated fairly, honestly and with respect.

Mission of the NAIC

The mission of the NAIC is to assist state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals in a responsive, efficient and cost effective manner, consistent with the wishes of its members:

- Protect the public interest;
- Promote competitive markets;
- Facilitate the fair and equitable treatment of insurance consumers;
- Promote the reliability, solvency and financial solidity of insurance institutions; and
- Support and improve state regulation of insurance.

Contact Information

Executive Headquarters

NAIC Executive Headquarters
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Phone: (816) 842-3600
Fax: (816) 783-8175

**LIFE INSURANCE SALES TO MEMBERS OF THE ARMED FORCES
NAIC REPORT TO CONGRESS**

Government Relations

NAIC Government Relations Office
444 North Capitol Street NW, Suite 701
Washington, DC 20001

Phone: (202) 624-7790
Fax: (202) 624-8579

State Progress Report

	Date Adopted	Effective Date	Active Duty* Service Members	Per Cent	Comments
Adopted					
Alabama	09-05-07	09-29-07	10,054	0.9%	
Colorado	08-03-07	08-03-07	28,452	2.4%	
Delaware	08-13-07	09-11-07	3,379	0.3%	
Georgia	08-07-07	09-01-07	67,702	5.8%	
Idaho	09-05-07	09-05-07	4,259	0.4%	
Kansas	07-26-07	07-26-07	20,382	1.7%	
Montana	08-13-07	01-01-08	3,497	0.3%	
Nevada	08-30-07	09-01-07	9,313	0.8%	
North Carolina	09-01-07	01-01-08	107,470	9.1%	
Ohio	08-21-07	09-01-07	7,153	0.6%	
Oklahoma	08-02-07	08-13-07	23,460	2.0%	
Oregon	09-13-07	01-01-08	1,639	0.1%	
Rhode Island	09-05-07	09-05-07	2,776	0.2%	
Texas	08-17-07	01-01-08	123,428	10.5%	
Washington	08-13-07	09-20-07	53,111	4.5%	

Total States	15
% States [†]	29%
Total Active Duty	466,075
% Active Duty	39.6%

* Active Duty Personnel Total 1,176,319 at CONUS Installations, 5/1/2007, DRS #18734

Adoption < Three Months

Arizona			20,827	1.8%	Hearing set 11-06. Target ED, 01-05-08.
Arkansas			4,905	0.4%	Hearing held 09-05-07. Target ED, 10-01-2007.
Connecticut			6,947	0.6%	Rule published 07-19-07. Target ED, 11-01-07.
DC			13,912	1.2%	Rule to be published early Oct. Target ED, 01-01-08.
Florida			62,347	5.3%	Rule adopted. Await Sec of State Cert. Target ED, 10-07.
Illinois			21,331	1.8%	Rule published 08-03-07. Target ED, 01-01-08.
Iowa			359	0.0%	Hearing set 10-16-07. Target ED, 12-26-07.
Louisiana			16,196	1.4%	Hearing set 09-24-07. Target ED, 12-20-07.
Maine			2,626	0.2%	Rule Published 08-17-07. Target ED, 01-01-08.
New Hampshire			1,226	0.1%	Hearing set 10-10-07. Target ED, 12-01-07.
New Mexico			10,254	0.9%	Hearing held 08-29-07. Target ED, 01-01-08.
New York			22,588	1.9%	Admn proc. underway 09-15-07. Target ED, Q1or 2 08.
North Dakota			6,830	0.6%	Rule published 09-07-07. Target ED, 01-01-08.
Tennessee			2,487	0.2%	Hearing held 08-15-07. Target ED, 01-01-08.
Utah			4,992	0.4%	Rule published 09-14-07. Target ED, 11-07-07.
Virginia			130,739	11.1%	Rule published 08-29-07. Target ED, 01-01-08.

Cumulative

Total States	16	31
% States	31%	60%
Total Active Duty	328,566	794,641
% Active Duty	27.9%	67.6%

† Includes DC and Puerto Rico

AD = Adoption Date

ED = Effective Date

September 26, 2007

State Progress Report

	Date Adopted	Effective Date	Active Duty Service members		Comments
Adoption < Six Months					
California			154,298	13.1%	Rule to be published in October. Target ED, 02-01-08.
Hawaii			46,868	4.0%	Draft Rule approved by AG. Target ED, 01-01-08.
Kentucky			37,664	3.2%	Rule to be published on 10-15-07. Target ED, 01-01-08.
Minnesota			798	0.1%	Rule published 07-16-07. Target ED, 1 qtr. 08.
New Jersey			8,537	0.7%	Rule to be published on 10-01-07. Target ED, 1st qtr 08.
Puerto Rico			640	0.1%	Rule to be published on 09-15-07. Target ED, 01-01-08.
South Carolina			32,722	2.8%	Rule to be published in October. Target ED, 11-01-07.
Wisconsin			855	0.1%	Notice of Scope published 08-17-07. Target ED, 03-01-08.
Cumulative					
Total States	8		39		
% States	15%		75%		
Total Active Duty	282,382		1,077,023		
% Active Duty	24.0%		91.6%		

Under Review/Drafting					
Alaska			22,675	1.9%	Drafting Rule. Target ED, 01-01-08.
Indiana			823	0.1%	Legislation adopted. Model under review.
Maryland			26,219	2.2%	Drafting Rule. Target ED, 01-01-08.
Mississippi			11,009	0.9%	Rulemaking to begin 9/07.
Pennsylvania			3,094	0.3%	Expect to publish in October.
Vermont			104	0.0%	Preparing draft. Target Ed, 03-01-08.
Wyoming			2,992	0.3%	Expect to promulgate by end of 07.
Cumulative					
Total States	7		46		
% States	13%		88%		
Total Active Duty	66,916		1,143,939		
% Active Duty	5.7%		97.2%		

Seeks or Requires Legislative Authority or Approval					
Massachusetts			3,971	0.3%	Add. enact. legislation filed 9-20-07. Target ED, Q2 08.
Michigan			2,288	0.2%	Legislation to be proposed 09-07. Target ED, 03-01-08.
Missouri			15,703	1.3%	Prefiling 11-12-07. Target ED 08-01-08.
Nebraska			6,602	0.6%	Introduction 2008 Session. Target ED, 08-01-08.
South Dakota			3,154	0.3%	Adoption a legislative priority . Target ED 07-01-08.
West Virginia			377	0.0%	Adopted Model. Rule filed with Leg. 06-27-07.
Cumulative					
Total States	6		52		Target ED, 03-15-08.
% States	12%		100%		
Total Active Duty	32,095		1,176,034		
% Active Duty	2.7%		100%		

MILITARY SALES PRACTICES MODEL REGULATION

Table of Contents

Section 1.	Purpose
Section 2.	Scope
Section 3.	Authority
Section 4.	Exemptions
Section 5.	Definitions
Section 6.	Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation
Section 7.	Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location
Section 8.	Severability
Section 9.	Effective Date

Section 1. Purpose

- A. The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.
- B. Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

Drafting Note: The language of Subsection B comes from the NAIC Unfair Trade Practices Act. If a state has adopted different language, it should be substituted for Subsection B.

Section 2. Scope

This regulation shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

Section 3. Authority

This regulation is issued under the authority of [insert reference to enabling legislation].

Drafting Note: States may wish to use the Unfair Trade Practices Act as enabling legislation or may pass a law with specific authority to adopt this regulation.

Section 4. Exemptions

- A. This regulation shall not apply to solicitations or sales involving:
 1. Credit insurance;
 2. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;

Military Sales Practices Model Regulation

3. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;
 4. Individual stand-alone health policies, including disability income policies;
 5. Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 *et seq.*;
 6. Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501 (c) (23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or
 7. Contracts used to fund:
 - (a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
 - (b) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;
 - (c) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;
 - (d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
 - (e) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
 - (f) Prearranged funeral contracts.
- B. Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS or successor directive.
- C. For purposes of this regulation, general advertisements, direct mail and internet marketing shall not constitute “solicitation.” Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this regulation in any in-person, face-to-face meeting established as a result of the “solicitation” exemptions identified in this subsection.

Section 5. Definitions

- A. “Active Duty” means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.
- B. “Department of Defense (DoD) Personnel” means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.
- C. “Door to Door” means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.
- D. “General Advertisement” means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.
- E. “Insurer” means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.
- F. “Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.
- G. “Known” or “Knowingly” means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:
- (1) is a service member; or
 - (2) is a service member with a pay grade of E-4 or below.
- H. “Life Insurance” means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.
- I. “Military Installation” means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.
- J. “MyPay” is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.
- K. “Service Member” means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.
- L. “Side Fund” means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or

Military Sales Practices Model Regulation

other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

- (1) accumulated value or cash value or secondary guarantees provided by a universal life policy;
- (2) cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
- (3) a premium deposit fund which:
 - (a) contains only premiums paid in advance which accumulate at interest;
 - (b) imposes no penalty for withdrawal;
 - (c) does not permit funding beyond future required premiums;
 - (d) is not marketed or intended as an investment; and
 - (e) does not carry a commission, either paid or calculated.

M. “Specific Appointment” means a prearranged appointment agreed upon by both parties and definite as to place and time.

N. “United States Armed Forces” means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

Section 6. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation

A. The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

- (1) Knowingly soliciting the purchase of any life insurance product “door to door” or without first establishing a specific appointment for each meeting with the prospective purchaser.
- (2) Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary.
- (3) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
- (4) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.
- (5) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee.
- (6) Posting unauthorized bulletins, notices or advertisements.

- (7) Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.
- (8) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

Drafting Note: Currently, Army Regulation 210-7, which applies only to Army pay grades E-3 and below, requires that DA Form 2056, "Commercial Insurance Solicitation Record" be completed. At the time this Model Regulation was adopted, there were no similar requirements for other service branches, although it is anticipated that in the future there may be similar regulations adopted by other service branches.

- B. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:
 - (1) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.
 - (2) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

Section 7. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location

- A. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:
 - (1) Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.
 - (2) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

Military Sales Practices Model Regulation

- (a) provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301 *et seq.* and the regulations promulgated thereunder; and
 - (b) permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.
- (3) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subsection 7 (A)(2).
 - (4) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.
 - (5) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.
 - (6) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.
 - (7) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.
 - (8) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or State of legal residence for the sole purpose of increasing disposable income to purchase life insurance.
- B. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:
- (1) Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor."

Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS).

- (2) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.
- C. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:
- (1) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.
 - (2) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."
- D. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:
- (1) Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive.
 - (2) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive.
 - (3) Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.
- E. The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:
- (1) Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

Military Sales Practices Model Regulation

- (2) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.
- (3) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.
- (4) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the “Military Personnel Financial Services Protection Act,” Pub. L. No. 109-290, p.16.
- (5) Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:
 - (a) an explanation of any free look period with instructions on how to cancel if a policy is issued; and
 - (b) either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of [insert reference to state’s illustration or disclosure regulation] shall be deemed sufficient to meet this requirement for a written disclosure.

Drafting Note: In addition to the items enumerated above, states may wish to add other items required by their laws and regulations, for example, the NAIC Life Insurance Buyer’s Guide.

- F. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:
- (1) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.
 - (2) Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant’s SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant’s insurable needs for life insurance.
 - (a) “Insurable needs” are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant’s estate and/or survivors or dependents.

- (b) “Other military survivor benefits” include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents’ Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.
- (3) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:
 - (a) unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;
 - (b) unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and
 - (c) which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.
- (4) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.
- (5) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured’s death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, *e.g.*, double indemnity, which may be excluded.

Drafting Note: While the drafters are of the opinion that making it an unfair or deceptive trade practice to market and sell life insurance policies containing a war or military exclusion to active duty service members during a time of war is not inconsistent with statutes which permit those exclusions, others may disagree. Those states may either delete the subsection or seek to amend their statutes in order to protect service members under this subsection.

Section 8. Severability

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

Section 9. Effective Date

This regulation shall become effective [January 1, 2008, or the effective date set in regulation] and shall apply to acts or practices committed on or after the effective date.

[insert state
insurance
department
logo]



*An Important Message from the [insert state insurance department] and the Department of Defense
Regarding the Sale of Life Insurance to the Military*

IF YOU'VE STARTED A SAVINGS OR INVESTMENT PLAN, DO YOU KNOW WHERE YOUR MONEY IS REALLY GOING?

Many service members who think they have a pure investment or savings plan later discover they actually purchased an expensive life insurance policy with a small death benefit, combined with a "side" or "accumulation fund." The U.S. Congress has declared these "side fund" products "entirely inappropriate for most military personnel." Almost all service members have \$400,000 of government sponsored SGLI term life insurance for only \$28.00 a month and every member can participate in the Federal Thrift Saving Plan (TSP). *Take a close look at your plan to see if any of these Red Flags apply to you:*

RED FLAGS

- RF** Were you approached by someone, or did you receive a card or a mailer, offering information on your military or VA benefits, or about a military service organization, only later to receive a sales pitch for insurance, investments, savings or retirement?
- RF** Were you offered free pizza, movie tickets, or some other freebie to attend a meeting on or off the installation where you received a sales pitch for insurance, investments, savings or retirement?
- RF** Did the sales pitch focus on tax deferred savings paying a high rate of interest? Was life insurance mentioned? If so, were you asked how much life insurance you needed, or just asked how much you could afford to "save" each month?
- RF** Did anyone say or imply that SGLI might not always pay or that the TSP isn't a good investment?
- RF** Were you pressured to sign up or rushed through an application without time to understand the details, ask questions or read all the information?
- RF** Were you asked to show your CAC card or access your myPay account to set up payments to a bank or someone you've never done business with?
- RF** Did they fail or refuse to give you copies of your paperwork and information clearly describing what you just bought?

If any of these Red Flags apply to you, contact your installation's **Financial Readiness office at XXX-XXXX**. They'll be happy to look at your program to see exactly what you have; especially if you're not sure if what you purchased was insurance, investments, or both. Report any of the activities listed above or file a complaint with the **[insurance department in your state]** by going on-line to _____ or calling 800-xxx-xxxx.

Date

To Military Base Commander

Re: Adoption of Military Sales Practices Regulation

Dear Military Base Commander:

I am pleased to inform you that [State Insurance Regulator] has adopted the Military Sales Practices Rule. The Rule (copy enclosed) establishes standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair. Many of the practices identified incorporate DoD solicitation rules. For example, the Rule, tracking DoD regulations, makes it a deceptive trade practice to solicit in barracks, day rooms and other restricted areas. The Rule applies to conduct of insurers and insurance producers both on and off of a military installation.

The Rule is based on a model regulation developed by the National Association of Insurance Commissioners in coordination with the Department of Defense pursuant to the Congressional mandate announced in the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290 (2006). The federal Act requires the states to work collectively with the Secretary of Defense to adopt marketing and product suitability standards regarding the sale of life and annuity products to members of the military.

Hopefully, with this powerful new enforcement tool and working together, we can finally put an end to abusive practices which for too long have accompanied the sale of life insurance to members of the military. In this regard, I would appreciate it if you would distribute this Rule to your installation's Financial Readiness, Consumer Affairs and Judge Advocate General's offices. We encourage you also to publicize the adoption of this Rule in your installation's newsletters and newspapers.

Please call upon my office if we can assist you in this matter.

Sincerely,

State Insurance Regulator