Securian Financial Group, Inc.

Formal Comment on Proposed Changes to Regulation Z Docket No. R-1390

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SECURIAN™

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Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Proposed Rule – Credit Protection Product Rules Under Regulation Z
Docket No. R-1390

Dear Secretary Johnson,

Securian Financial Group, Inc. ("Securian"), is a mutual insurance holding company based in St. Paul, Minnesota. With more than $600 billion of life insurance in force, the member companies of Securian serve over nine million people through a combined workforce of over 5,000 associates and representatives.

Securian is America's 2nd leading writer of credit accident & health (credit disability) coverage, the 4th leading writer of credit life insurance, and the nation's 5th largest writer of group life. Its insurance subsidiaries include Minnesota Life Insurance Company, Securian Life Insurance Company, Cherokee National Life Insurance Company, Insurance America and Securian Casualty Company.

As such, Securian has a real and cognizable interest in the outcome of the Board's rulemaking R-1390. In particular, Securian writes to comment on proposed changes to the following provisions:

1. disclosures relating to credit insurance, debt cancellation and debt suspension products; and
2. the inclusion of premiums and fees as finance charges in the calculation of the APR.

The Federal Reserve Board (the "Board") has proposed R-1390 to revise the rules governing, and the content of, the disclosure required for closed-end and open-end consumer loans, with the stated goal of improving the effectiveness of the disclosures creditors provide to consumers. While Securian has always supported appropriate and effective product disclosure, we conclude that the rulemaking as

presently proposed is fatally flawed and does a disservice to consumers, financial institutions and product providers.

We object to the Board's proposed credit protection product disclosures for the following reasons:

1. The Board has not demonstrated a need for the expanded disclosures, and the record does not support the Board's actions.
2. The Board exceeds its authority under the Truth-in-Lending Act by expanding the scope and content of the disclosures.
3. The proposed changes wrongfully impugn important products that are both valued and deeply needed by significant segments of the public, including the underinsured, those ineligible for individual coverage, and those unable to afford more expensive traditional forms of protection.
4. The disclosures are factually inaccurate, misleading, and negatively biased against the products.
5. The disclosures were based on consumer research that is fatally flawed.
6. The rulemaking is rife with procedural errors, not the least of which is that the proposed disclosures were buried in a 930-page document described as a proposal to "enhance consumer protections and disclosures for home mortgage transactions as part of the second phase of a comprehensive review". The proposal itself was one of five mortgage-related proposals issued by the Board on the same day: August 16, 2010.

Consequently, the Board has left us with no alternative but to **respectfully call upon the Board to withdraw proposed Rule R-1390** until it can demonstrate a substantive understanding of our products and industry, and can propose updated disclosures that are balanced, factually accurate, and within the scope of authority granted to the Board by Congress.

I. No Justification for Board Action

A threshold issue for any regulation that seeks to make changes to consumer disclosures as dramatic as those proposed by the Board must be demonstrating why such drastic revision is necessary at all. The existing disclosures have effectively served consumers for decades; they are factual in nature and readily understood by both consumer and lender alike. Their revision should only be undertaken to correct a serious defect that has resulted in prejudice to the interests of the parties involved, or in response to a change made by Congress to the Truth in Lending Act (TILA).

A meticulous review of the record and the accordant facts indicates that the Board's justification for this change is thin to nonexistent. As we demonstrate below, the change to the credit protection product disclosures is truly a Board-created ***regulation in search of a problem***.

A. Products already highly regulated

Consumer credit insurance is an insurance product already comprehensively regulated by the state departments of insurance in all 50 states. Like other forms of life and disability insurance, credit insurance is part of a highly-regulated industry. We are subject to myriad federal & state laws, including those regarding unfair/deceptive trade practices and insurance laws governing every aspect of our products, from the specific wording of our policy forms, the rates we may charge, and the method of refund calculation, to what we may say in our product advertising and the sales process. In addition, as highly-regulated entities, we are continually under the watchful eyes of states' Attorneys General, not to mention a vigorous plaintiff's bar enticed by the prospect of class action litigation against a "deep pocket". There is nothing in the record that demonstrates that the industry is insufficiently or ineffectively regulated under the current system.

Debt protection products are not insurance products. As amendments to loan agreements, debt protection products are regulated by OCC, OTS, NCUA and state banking regulators. Disclosure requirements are published by the OCC for national banks offering debt cancellation or debt suspension coverage.

The OCC Debt Cancellation and Suspension Rules under 12 CFR Part 37 have been in effect since 2002. The rules apply to debt cancellation, debt suspension, and Guaranteed Asset Protection ("GAP") (collectively referred to as "debt protection"). They provide substantive requirements as well as required short-form and long-form disclosures that must be provided to the consumer prior to purchase. The rules also require the consumer's written (or similarly authenticated) acknowledgment of receipt of the disclosures and an affirmative, written (or similarly authenticated) election to purchase.

The disclosures are numerous, including:

- That the product is optional and will not affect the consumer's credit application;
- That a debt suspension feature will only suspend the obligation to repay the loan;
- If applicable, activation of the benefits will restrict the use of a revolving credit line;
- Amount of the fee (total fee for closed-end loans; unit-cost for open-end credit);
- That paying a lump sum payment (if applicable) by adding it to the amount financed will increase the cost;
- Whether or not there is a right to a refund of a lump-sum payment if the loan is paid off early;
- Whether or not the consumer can terminate at any time, and the circumstances in which the contract can be cancelled; and
- That there are additional requirements, exclusions, and conditions that could prevent the consumer from obtaining benefits.

The NCUA, in Letter to Credit Unions No. 03-FCU-06 (May 2003), has instructed federal credit unions to use the OCC Rules as "best practices".

Additionally, *virtually all 50 states' legislatures and/or banking departments have either set forth their own statutes or regulations that mimic the OCC rules, and/or have instructed their entities to follow the*

OCC rules. *These laws apply to state-chartered depositories and state-licensed non-banks*. As such, the OCC Debt Cancellation Rules are essentially the "law of the land" across the country for virtually all lenders.

The OCC also has incorporated debt protection programs into their exam procedures. It is a part of the Retail Lending Examination Procedures in the Comptroller's Handbook. According to the Handbook, the OCC's objective is to assess the bank's debt protection programs to determine the implications for income as well as credit quality, program performance, and level of compliance. Within the exam, the examiner is required to assess whether the program is accurately described in the bank's marketing materials and disclosures; determine whether advertising, marketing, and disclosures complies with the rules, including the disclosures and substantive requirements of the rules. Finally, the examiner will assess the adequacy of the policies, procedures, and practices in place for each program. This includes testing a sample of at least 30 approved and 30 denied claims.

State charters and licensees are also subject to examination by their regulators regarding credit protection products. We urge the Board to taken the time to develop a deeper substantive understanding of the existing regulatory structure and the broad regulatory requirements applicable to the various products before considering the imposition of any changes to the current requirements.

B. Miniscule incidence of complaints

One might presume from the content of the proposed disclosures that there must be widespread dissatisfaction among consumers of these products, a groundswell of complaints by consumers. If this is the Board's contention, we respectfully submit that the Board has yet to establish such facts on the record. Unsubstantiated statements to that effect, such as the Board used in its August 2009 rulemaking ("concerns have been raised about whether the current disclosures sufficiently inform consumers of the voluntary nature and costs of the product")[1], are completely insufficient to justify such broad, sweeping changes.

We challenge the Board to prove such a premise, already knowing full well what the Board does not. The facts do not now, and have not ever, supported a claim of pervasive consumer dissatisfaction with the products. In fact, they demonstrate the exact opposite – a paucity of complaints. As evidenced briefly below, and more fully in Section III of this letter, actual purchasers of the products understand their purchase of the products is optional and strongly value the protection and peace of mind afforded by credit protection products; so much so that the vast majority of them would purchase them again in the future.[2]

The objective facts are unassailable. By law, every insurer is required to track and report to state insurance regulators all complaints it receives, regardless of the cause, nature, or even legitimacy of the complaint. These cases are aggregated annually by the National Association of Insurance

[1] 74 FR 43249 (August 26, 2009).
[2] See Section III.

Commissioners, and provide a clear factual picture of the performance of the credit insurance industry as a whole. A summary of these figures is attached as Exhibit 1.

During the period from 2005 – 2009, 111,392,414 credit insurance certificates were issued. Of all these 110 million plus policies issued during that five year period, insureds nationally lodged an average of only 533 complaints each year. Put more simply, only 1 complaint was submitted for every 41,814 certificates issued. 1 per 41,814!

It is hard to imagine any other industry – let alone one that has been in existence nearly 100 years – that has a more impressive record of performance for its customers. Are nearly 42,000 car repairs completed at dealerships each year without consumer complaint of a defective job? Or 42,000 meals served at your local fast food restaurant before a customer is upset with the food or the service they received? How about mobile phone coverage? Or cable TV service? Does the Board think either of those industries have a consumer complaint rate of 0.00239%?

By way of comparison, if credit insurance were an automated manufacturing process, this level of "defects" would place it somewhere between Five Sigma (99.98%) and Six Sigma (99.9997% defect free) performance, the unquestioned "world standard" for quality. This almost unbelievably low incidence of customer complaints is even more impressive when reviewed in the appropriate context of the insurance industry. Over the same five year period, the NAIC reports that complaints on individual life policies were received at a rate 2.7 times higher that of complaints made on credit insurance.

C. No evidence of conferring with regulators or industry

The above cited figures are just one of the many pieces of objective factual information that were readily available to the Board had it reached out to the products' regulators. Sadly, however, the record is bereft of any indication that the Board began its consideration of potential revisions based upon dialogue with those regulators who oversee the products. There is no statement in the record to the effect that discussions with the NAIC or OCC brought to light consumers' concerns about the disclosures, or that a river of consumer complaints necessitated its rush to regulate.

Nor did the Board begin its research by reaching out to those who actually deal with the products every day – the credit insurance and debt protection products industry. It was only after industry stumbled upon the proposed changes – buried in a largely unrelated regulation released at the same time as five others – that *industry* reached out to Board staff in search of an audience and an understanding as to why its products had been unjustly targeted for regulatory extinction.

The Board's approach – draft the rules first, learn about what it is regulating later – is truly unsettling. Had the Board begun its research by reaching out to those truly knowledgeable about the products, the industry, its processes and its regulation, perhaps it might have crafted disclosures that actually fulfilled its stated goal. As the proposed disclosures themselves reveal, however, the end product the Board crafted is terminally defective and does a disservice to consumers, financial institutions and product providers.

D. Fundamental misconception of the sales process

Based upon the discussion I participated in as part of the Consumer Credit Industry Association (CCIA) delegation's meeting with Federal Reserve Board staff on November 22, 2010, the Board appears to lack a meaningful understanding of the process for offering coverage. The staff's position on the proposed disclosures was that the content proposed was entirely neutral, and only served to help consumers ask the questions they should be asking when considering the product. Furthermore, they noted, to the extent that any of disclosures actually are in any way negatively biased against the products, such disclosures would only *serve to counter-balance the unfettered freedom loan officers have to say anything they want as part of the sales process*.

Clearly, the Board understands neither the legal and regulatory controls on the traditional sales process nor the significant limitations imposed upon lenders' employees when using the group enrollment exemption. Our meeting left no doubt that the Board had failed to complete the prerequisite self-education needed *before* proposing regulations, and instead was attempting to regulate based upon ill-informed preconceptions about how our products are offered.

Accordingly, we submit the following information in an attempt to inform the record, educate the Board, and correct the fundamental misunderstanding of the Board regarding the nature of the sales process and the legal and regulatory restraints upon it.

Group Enrollment Exception. The majority of jurisdictions – thirty-five states plus the District of Columbia[3] – have a bulletin or a provision in their licensing statutes which exempts from licensing requirements those persons who secure and furnish information for group insurance, enroll individuals in group plans, issue certificates or perform other administrative services in connection with a group plan. This exception means that unlicensed financial institution employees can make eligible members of a group (i.e., debtors) aware of the group insurance and assist them in becoming insured.

Often utilizing a recommended script that complies with the tenets of the exception, an example of which is attached as Exhibit 3, unlicensed employees (typically loan officers) are allowed to perform only the following duties with regard to debt-related protection products:

- Describe the features of the product.
- Distribute an application and brochure (self-mailer).
- Provide the cost and other disclosures as required by Regulation Z.
- Provide insurance sales disclosures as required by Gramm-Leach-Bliley and obtain signature (if applicable).
- Complete the Lender's section of the application.
- Forward the completed application to the insurer.

And that's it. Unless they are licensed, they can't encourage the purchase. They can't respond to objections. They can't extol the virtues of the protection. They can't compare coverage with other products. Any activity that would be considered selling, soliciting or negotiating insurance as defined by

[3] Exhibit 2 contains a full list of states allowing the group enrollment exception.

state insurance law requires a license. Moreover, this exception does not apply if the employee receives any kind of compensation or incentive based on sales of a product.

Consequently, the neutrality and factual accuracy of any required disclosure is of paramount importance. This is particularly true when such disclosure is provided under the exemption, as the enroller is prohibited from combating any misinformation or slant written into the document.

Limited Line Credit Licensed Agent.[4] The remaining fifteen states require at least some degree of licensing in order to offer insurance. In nearly every one of these, the licensee is required to successfully complete one or more of the following: pre-licensing education, a licensing examination, continuing education, or an education program provided by the insurer (generally approved by the state's Department of Insurance (DoI)). As licensed producers, their conduct is subject to the legal and ethical requirements imposed by the laws of their state of licensure, and any alleged violation is subject to the review and enforcement authority of their respective DoI. As shown in attached Exhibit 5, a producer is required to report to the insurance commissioner any administrative action or criminal prosecution undertaken against the producer *regardless of the jurisdiction* in which such action is commenced.[5]

NAIC Advertising Model Regulations. Insurers are also subject to a broad range of federal and state laws limiting the way in which they may present their products to the public. Among the most critical of these are the following:

1. Advertisements of Life Insurance and Annuities Model Regulation; and
2. Advertisements of Accident and Sickness Insurance Model Regulation.

Under these regulations, advertisement is broadly defined to various encompass forms of communication that an insurer use to incent a prospective buyer to purchase a product. For example, under the life advertisement regulation:

> (1) "Advertisement" means:
> (a) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other Internet displays or communications, other forms of electronic communications, billboards and similar displays;
> (b) Descriptive literature and sales aids of all kinds issued by an insurer, agent, producer, broker or solicitor for presentation to members of the insurance-buying public, such as circulars, leaflets, booklets, depictions, illustrations, form letters and lead-generating devices of all kinds; and
> (c) Prepared sales talks, presentations and material for use by agents, brokers, producers and solicitors whether prepared by the insurer or the agent, broker, producer or solicitor.
> (2) The definition of "advertisement" includes advertising material included with a

[4] Exhibit 4 contains a full list of states requiring a Limited Line Credit license. Note that Georgia and North Dakota require agents to obtain a "Credit Life & Health" lines license.
[5] State adoption table for the Producer Licensing Model Act is attached as Exhibit 6.

policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.

(3) The definition of advertisement extends to the use of all media for communications to the general public, to the use of all media for communications to specific members of the general public, and to the use of all media for communications by agents, brokers, producers and solicitors.

(4) The definition of advertisement does not include:

(a) Material used solely for the training and education of an insurer's employees, agents or brokers;

(b) Material used in-house by insurers;

(c) Communications within an insurer's own organization not intended for dissemination to the public;

(d) Individual communications of a personal nature with current policyholders other than material urging the policyholders to increase or expand coverages;

(e) Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;

(f) Court-approved material ordered by a court to be disseminated to policyholders; or

(g) A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided that the announcement clearly indicates that it is preliminary to the issuance of a booklet and that the announcement does not describe the specific benefits under the contract or program nor describe advantages as to the purchase of the contract or program. This does not prohibit a general endorsement of the program by the sponsor.

As you can see from the above definition, any prepared sales talks, presentations and materials including printed and published material, audio visual material, and descriptive literature and sales aids must comply with the requirements of these regulations.

Again, for the Board's education, we attach as copies of these documents as Exhibits 7 & 9 and their respective state adoption tables as Exhibits 8 & 10. A thorough review of the requirements discussed in this section should serve as an informative starting point for the Board to develop a more substantive understanding of the limitations and parameters under which an offer of coverage is made.

E. Lack of understanding of basic concepts of risk transference

The content of the disclosures, as well as our discussion with FRB Staff, appear to indicate on the part of the Board a lack of understanding of basic principles of insurance / risk transference, as well as the characteristics of the products that are the focus of the proposed disclosures.[6] For example, the FRB Staff were unaware of the point at which a product's coverage takes effect, and confused eligibility determination with the concept of "post-claim underwriting."

Moreover, the Board seems to have only a rudimentary appreciation of the differences between various types of insurance products; what are their respective requirements for eligibility and why; how the

[6] Section IV provides in-depth treatment of the inherent misconceptions reflected in the proposed disclosures.

products underwritten and priced; what role do health questions play in coverage and why; what are exclusions, why do they exist, and what are the implications if they are removed; which consumers would benefit from what type of coverage and why; and how are claims determined for various protection products. These are but a few of the areas in which the Board appears to require additional education. We strongly urge the Board to draw upon the knowledge of industry experts and product regulators, who possess advanced expertise in insurance and risk-transference concepts and products.

F. Cited cases insufficient to justify the proposed changes; additional disclosures would not have prevented bad actors

In its 2009 rulemaking, the Board did cite as justification four instances in which consumers who never qualified for the products were sold credit protection.[7] However, a careful examination of these cases reveals that they provide little support for either the position or the changes proposed by the Board.

The first case, *FTC v. Stewart Finance Company*, is a case demonstrating blatant fraud by a creditor. The loan officers at issue either said nothing about the product, told the borrowers that the coverage was required, or made representations leading the borrowers to believe that it was required. It also sold policies on refinanced loans that already had maximum coverage, and refused to credit the account when a borrower became aware that the coverage was in place. In this "packing" case, disclosures were given to the borrowers; the loan officers just explicitly contradicted them. Expanding the number and scope of the disclosures would not have prevented this occurrence of fraud, and consequently it is inappropriate for the Board to cite as support for the changes proposed.

The second case, *Stewart v. Gulf Guaranty*, involved a borrower who couldn't read. The loan officer did not tell her that coverage was required and there is no evidence in the case to suggest that she did not know the coverage was voluntary. The facts of this case are that the borrower was never given the insurance application, and was then denied benefits based on an arthritic condition that made her ineligible for the coverage at application time. This case has nothing to do with whether the borrower knew that the product was voluntary or not (although the facts imply that she did know it was voluntary) and nothing to do with the disclosure of the cost. Again, this case does not support the Board's contention of a need for expanded disclosure.

The third case, *Parker v. Protective Life*, was a case in which two borrowers misrepresented their medical conditions. There is no indication in the record that the borrowers thought the product was required. In fact, in dicta the case suggests that the borrowers very well knew the protection was voluntary, and that they knew they wouldn't qualify because of their existing conditions, but they both stated on the insurance application that they had no such excluding conditions, and signed up for coverage anyway. This case does not support the Board's contention regarding issues relating to voluntary election or disclosure of cost.

In another case of a fraudulent actor, *OCC v. Providian National Bank*, Providian used deceptive practices to place credit protection on its credit card holders, including failing to disclose extremely

[7] *Id*. at 43248.

unusual and unreasonable restrictions, such as benefits not being available if the cardholder made more than the minimum payment on the card each month. Additionally, some cardholders were sold the protection even though they were not eligible because they were self-employed. Providian had created an entire system intended to confound, confuse, and deceive its card holders, both regarding the debt protection and beyond. Considering that Providian already ignored existing disclosure requirements, it is highly unlikely that additional disclosures would in any way have prevent this bad actor from perpetrating a $300 million dollar fraud on its cardholder.

What the Board has presented as justification are cases which either (1) do not actually involve issues of voluntary election of coverage or disclosure of cost, or (2) would not have been solved by the addition of the disclosures that the Board proposes. Consequently, we continue to await the Board's justification for the alleged "concerns over the voluntary nature and cost of the product", particularly in light of the fact that **had the proposed disclosures already been required when these bad acts occurred, it remains doubtful that any of the cases would have had a different outcome**.

G. Record so deficient as to necessitate withdrawal

An evaluation of the Board's unfounded approach leads to one simple conclusion: the non-existent record established as justification for the proposed revisions to credit protection disclosures is so deficient as to obligate the Board to withdraw the disclosure provisions of R-1390.

II. FRB Proposal Exceeds Its Authority

A. Board must follow unambiguous language of TILA

The Board does not have the authority to expand the disclosures under TILA as a requirement to exclude fees and charges. We explain as follows:

The black-letter law of TILA. The Truth-in-Lending Act clearly sets forth the exclusive set of elements necessary to exclude fees and charges from the finance charge. Additional disclosures promulgated by the Board is not one of those element. Section 106 of TILA, 15 USC 1605, states:

> (b) Life, accident, or health insurance premiums included in finance charge.
>
> Charges or premiums for credit life, accident, or health insurance written in connection with any consumer credit transaction shall be included in the finance charges **unless:**
>
> > **(1)** the coverage of the debtor by the insurance is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the person applying for or obtaining the extension of credit; and

> **(2)** in order to obtain the insurance in connection with the extension of credit, the person to whom the credit is extended must give specific affirmative written indication of his desire to do so after written disclosure to him of the cost thereof.[8]

The Board's Discretionary Authority. While TILA sets forth the requirements under the statute, section 105(a) of TILA generally authorizes the Board to make adjustments and exceptions to TILA to "effectuate the statute's purposes, to prevent circumvention or evasion of the statute, or to facilitate compliance with the statute". 15 U.S.C. 1601(a), 1604(a).

In the 2009 proposal, the Board tries to justify the expansion of the disclosures by stating:

> TILA Section 105(a), 15 U.S.C. 1604(a), authorizes the Board to prescribe regulations to carry out the purposes of the act. TILA's purpose includes promoting ''the informed use of credit,'' which ''results from an **awareness of the cost thereof by consumers**.'' TILA Section 102(a), 15 U.S.C. 1601(a). A premium or charge for credit insurance or debt cancellation or debt suspension coverage is a cost assessed in connection with credit. The credit transaction and the relationship between the creditor and the consumer are the reasons the product is offered or available.[9]

We agree with this analysis of TILA's purpose. However, the Board then goes on to state:

> **Because the merits of this product have long been debated,** the Board believes that consumers would benefit from **clear and meaningful disclosures regarding the costs, benefits, and risks** associated with this product. As discussed more fully in § 226.4(d)(1) and (3), consumer testing showed that without clear disclosures participants were unaware of the voluntary nature, costs, and **eligibility restrictions**. For these reasons, the Board believes that this proposed rule would serve to inform consumers of the cost of this credit product.[10] (emphasis added)

The Board has the authority to issue disclosures regarding the cost of the product, because that authority is given to it in TILA. No such authority exists regarding the "merits" of the product, or the "benefits and risks" of the product.[11] The rulemaking power of an agency has never encompassed the power to make or repeal law.[12]

The Board misapplies its discretionary authority under Section 105. Because Congress has directly and unambiguously addressed the requirements necessary to exclude credit protection premiums and fees from the finance charge, the Board must follow that expressly enumerated intent. It is well established that an agency cannot contradict the unambiguous intent of Congress. For example, Chevron, U.S.A.,

[8] The Board has appropriately extended this same right to debt cancellation and debt suspension products, as they are substantially similar products to credit insurance.
[9] 75 FR 58559 (September 24, 2010).
[10] *Id*.
[11] This is authority given exclusively to state insurance departments for insurance products, and the OCC, NCUA, and state banking departments for debt protection products sold by the creditors that they regulate.
[12] *Nat'l Tour Brokers Ass'n v. I.C.C.*, 671 F.2d 528 (D.C. Cir. 1982).

Inc. v. National Resources Defense Council[13] has long been considered a seminal case in this area. Chevron stated:

> When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. **If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress**. . . if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute. [14] (emphasis added).

Similarly, Hess v. Citibank[15] is a recent case which addressed the Board's authority under TILA. It cited Chevron and stated:

> In reviewing the agency's construction of the statute, if Congress has directly spoken to the precise question at issue, then we must give effect to the unambiguously expressed intent. Otherwise, where Congress has "explicitly left a gap for the agency to fill, there is an express delegation of authority to the agency to elucidate a specific provision of the statute by regulation.[16]

Congress has spoken to the precise issue at hand, and that is the requirements necessary to exclude credit protection charges from the finance charge. It sets forth three very specific requirements, and leaves no gap for the Board to fill in. There is simply no ambiguity in TILA Section 106, and therefore the unambiguous language of TILA must be given effect.

Even the Board itself acknowledges that it must follow Congress' intent as set forth in the black letter language of TILA. For example, under the 2009 rulemaking, the Board has proposed to include credit protection charges in the calculation of "points and fees" under the HOEPA mortgage provisions of 226.32, even though those charges can be excluded from the finance charge under the language of TILA. The Board has this authority since, as it correctly points out, TILA at 15 USC 1602(aa)(4)(D) provides for the inclusion in the HOEPA calculation of "such other charges as the Board determines to be appropriate".

It is significant to note that Congress did NOT give the Board similar authority when it comes to the disclosures required to exclude credit protection charges from the finance charge. Following the Board's own reasoning, if Congress had intended to allow expanded disclosures for credit protection products, it would have stated so in TILA. For example, it could have easily drafted or revised Section 106 to state:

(b) Life, accident, or health insurance premiums included in finance charge.

[13] 104 S. Ct. 2778 (1984).
[14] *Id*. at 2781-2782.
[15] 459 F.3d 837 (8th Cir. 2006).
[16] *Id*. at 842.

Charges or premiums for credit life, accident, or health insurance written in connection with any consumer credit transaction shall be included in the finance charges **unless:**

(1) the coverage of the debtor by the insurance is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the person applying for or obtaining the extension of credit;

(2) in order to obtain the insurance in connection with the extension of credit, the person to whom the credit is extended must give specific affirmative written indication of his desire to do so after written disclosure to him of the cost thereof*; and*

***(3)** the creditor provides such other disclosures that the Board determines to be appropriate*.

Congress, however, has not done this. And it certainly has had plenty of opportunity to do so as part of the numerous amendments to TILA it has made in the past two years. It is simply fact that Congress has had no intention of expanding the content or scope of the disclosures or requirements required to exclude credit protection products from the finance charge. The Board, in the same rulemaking, is citing Congressional intent to justify its actions in one instance, while ignoring Congressional intent in the other. This is inconsistent and highly inappropriate.

Congress left no ambiguity in TILA section 106, nor did it expressly provide the Board with authority to alter the explicit language of the statute. The Board simply does not have the authority to expand the disclosures as a requirement for exclusion of these charges. The Board must therefore withdraw the proposed disclosures.

B. "Voluntary" standard misapplied by the Board

The Board uses a similarly flawed approach in its attempt to justify its expansion of the disclosures by relying upon the "voluntariness" standard cited in its 1983 commentary to Regulation Z. In other words, in order to exclude premiums and fees from the APR, the product must be "voluntary". The Board argues that the product is not voluntary if, for example, the consumer enrolls in protection that he never qualified for; or if the consumer does not know that there are "less expensive" alternatives; or if he does not know that there are eligibility requirements at claim time. Therefore, the Board argues, it can expand the disclosure requirements to avoid these scenarios.

However, the language of the statute does not use the word "voluntary". It states that the coverage must not be a factor in the approval by the creditor of the extension of credit. The Proposed Regulation exceeds the standard outlined under the TILA for excluding premiums for credit insurance, debt cancellation and debt suspension products from the finance charge.

III. Products Highly Valued by Actual Customers

A. Consumers need credit protection products

The implication that credit insurance and debt protection products and programs provide little or no value to consumers at best, or are detrimental to them at worst, could not be further from the truth. Credit insurance and debt protection programs are designed to provide a "bridge over troubled water" for borrowers should the unexpected occur – loss of life, sickness or injury, involuntary unemployment, or other unforeseen events. These programs help cancel or suspend debt, make monthly payments or pay off the loan, keeping customers current with their loan payments and ensuring they have one less thing to worry about during a time typically fraught with emotional and economic stress. In 2009, over $2 billion in benefits were provided to consumers from these programs.[17]

It is well documented that the economic security of American households has eroded over the last decade. Many low to middle-income households have experienced a growing gap between their incomes and their day-to-day costs of living, resulting in decreased savings, rising levels of debt, and widespread economic instability. Since the year 2000, many households have attempted to cope with this financial imbalance by relying on credit cards to cover basic expenses not met by their earnings. Cashed-out home equity - $1.2 trillion over the last six years – was used to pay down those debts and to cover other costs of living, creating a situation of financial fragility for many consumers.[18]

The current economic climate, coupled with the decline of the traditional insurance agent distribution system,[19] has resulted in ownership of individual life insurance falling to a recent 50 year low. Today, 30 percent of households (35 million) have no life insurance coverage compared with 22 percent of households in 2004. In addition, only 31 percent of U.S. workers are protected by long term disability insurance.[20] Most consumers rely on their employers for coverage, but in a recent study, when asked what percentage of their salary they would receive if they were to become disabled, nearly 4 in 10 workers (39 percent) did not know. One in 5 (22 percent) appeared to overestimate their coverage, thinking they would receive anywhere from 70 to 100 percent of their current salary, when, with few exceptions, disability insurance policies replace no more than two-thirds of a worker's pre-disability salary.[21] Involuntary unemployment or job loss protection is not typically available at all from an insurance agent or employer. State unemployment insurance programs often do not provide adequate benefits for most consumers to maintain their standard of living, and have term limitations as well.

The Board's proposed disclosures appear to intentionally inhibit a consumer's ability to supplement existing insurance coverage, if it exists at all, through the convenient, personal distribution network provided by financial institutions like regional and community banks, credit unions, and other lenders. At a time when the need for protection is greater than ever, this approach is in direct conflict with the consumer's best interest.

B. Consumers value credit insurance

[17] Credit Insurance Experience Exhibit (2009).
[18] Garcia, Jose. *Borrowing to make ends meet – the rapid growth of credit card debt in America.* Dēmos (November 2007).
[19] Society of Actuaries, *A Strategic Analysis of the Life Insurance Industry* (August 2005).
[20] Bureau of Labor Statistics. *National compensation survey* (March 2009).
[21] LIFE Foundation (May 2010).

Contrary to the Board's implicit condemnation of credit insurance, the vast majority of *actual purchasers of the product* are very happy with the coverage they have elected to purchase.

This fact is well documented. A number of studies have been conducted over the years testing consumer satisfaction with credit insurance, with favorable results.[22] For example, the Survey Research Center of the University of Michigan surveyed 1,006 consumers during September and October 2001 for the Credit Research Center of the McDonough School of Business of Georgetown University using a questionnaire designed by Thomas A. Durkin, a member of the FRB's Division of Research and Statistics.

The survey confirmed findings of earlier surveys, with up to 90 percent of credit insurance purchasers responding that they were satisfied with credit insurance and would elect to purchase it again when borrowing.

The results and analysis of the survey were reported in a 2002 article published in the Federal Reserve Bulletin by Mr. Durkin entitled, "Consumers and Credit Disclosures: Credit Cards and Credit Insurance."[23] Based on a comparison of results from similar surveys conducted in 1977, 1985, and 2001, the study concluded that "[f]avorable attitudes toward the products among those who purchase credit insurance on installment credit have not changed over time." The 2001 results indicated:

- More than 90% of installment credit users indicated a favorable attitude toward the product.
- 95% indicated that they would purchase it again.
- 75% of first-mortgage borrowers indicated a favorable attitude toward the product.
- 90% of junior-lien mortgage borrowers indicated a favorable attitude toward the product.

Mr. Durkin went on to address the wide chasm in opinions on credit insurance between those who have never purchased the products, and those who have elected to buy credit insurance:

> "With respect to credit insurance because the views of users and nonusers seem so divergent, **it seems important that the views of users be given sufficient weight in considering public policies in this area. According to the views expressed by many users of credit insurance, eliminating this product by regulation could be disadvantageous to them**." (Emphasis added)

C. Consumers value debt cancellation / suspension products

Although an industry-wide study has not yet been conducted for debt cancellation or debt suspension agreements, financial institutions often conduct their own surveys specific to their programs, which yield similarly positive results. From 2005 onward, one large regional bank (over $80 billion in assets) has been surveying its debt cancellation customers and asks the following questions (results through August 2010):

[22] Previous landmark surveys and studies of consumer attitudes to credit insurance include a 1973 study by the Ohio University College of Business Administration, 1977 and 1978 surveys for the Board of Governors of the FRB, a 1986 study for the Federal Reserve Bank of San Francisco, and a 1993 study by Purdue University.

[23] Thomas A. Durkin, *Consumers and Credit Disclosures: Credit Cards and Credit Insurance*. Federal Reserve Bulletin (2002).

How important was the benefit to you and your customers financially?

Critically important (wouldn't have gotten by without it)	67.6%
Important (would have gotten by without it, but it would have been difficult)	29.7%
Not important (would have been okay with or without it)	2.7%

How valuable was the benefit to you in relation to the monthly fee paid for the product?

Very	91.9%
Somewhat	5.4%
Not at all	2.7%

The survey also asks how the benefits helped the customers and their families. Some actual responses include "I wouldn't have gotten by without it," "Kept us from going bankrupt," "We would have been out of a house," and "It has enabled me to remain in my home during a very difficult time." What would have happened to these customers financially had the protection not been in place?

A study by Harvard Law Professor Christopher Tarver Robertson, *et al*,[24] on the medical causes of home mortgage foreclosures concludes with this recommendation:

> "One potential response is to create a public or private insurance system to prevent the problem. Such insurance could pay the mortgage during a verifiable medical crisis in the borrowers' household, allowing those with only a temporary problem to overcome it without losing their homes in the process."

Credit insurance and debt protection programs have provided precisely this type of benefit to consumers for many years. The Board should do nothing that would impair consumer access to these important consumer protection products.

D. Testimonials of actual consumers affirm satisfaction

While studies and analysis of broad consumer sentiment is important, what is perhaps most telling are the comments submitted by the actual users of the products. To help the Board appreciate just how critical these products are to the lives of individual consumers and their families, we attach as Exhibit 11 an excerpt from the body of testimonials we have received from people helped by these products. We encourage the Board to review these consumers' own words in their entirety, and give its thoughtful consideration to how the lives of these real people would have been impacted had they been dissuaded from purchasing this protection.

E. Board's research confirms coverage seen as optional

[24] Robertson, C.T., Egelhof, R. & Hoke, M. *Get Sick, Get Out: The Medical Causes of Home Mortgage Foreclosures*. Health Matrix (2008).

The 2001 *Durkin* Study is also important because it conclusively settles one of the age old questions regarding the purchase of any optional product such as these – do consumers as a whole understand that the purchase is optional and they are not required to buy the product? The results of the study are clear consumers already receive ample notice that credit insurance is a voluntary option to insure loans when they borrow. In specific, the study found:

- In 2001, **only one in 20 purchasers felt that they were led to believe that purchase was required**. (emphasis added)
- "The proportion of consumers who have felt pressured to purchase appears to have declined over the years".
- In each of the three surveys (1977, 1985, 2001), a large majority of both insurance purchasers and non-purchasers believed that purchasing credit insurance was irrelevant to whether the creditor was willing to grant credit to the borrower.
- Some consumers do not purchase the product "apparently because creditors do not always offer it, **or at least not vigorously enough for consumers to be aware of any sales efforts**". (emphasis added)

These findings are in accord with larger trend on consumer protection product purchasing identified in the study, which noted that the number of consumers purchasing credit insurance dropped from 60% in 1985 to 20% in 2001.

Moreover, subsequent Board testing also confirms consumer understanding. The Board's own consumer testing in 2009 found that consumers understood the currently-mandated disclosures. In February, 2009, the Board tested disclosures that satisfy the current disclosure requirements under TILA and Reg Z, section 226.4(d). The Board placed the following language[25] on Page 1 of a mortgage form that it was testing:

> **OPTIONS WITH ADDITIONAL COSTS**
>
> Credit Life Insurance is available for an additional cost of $50.00 per month for the first 15 years. It is not required for this or any loan. Initial below to add Credit Life Insurance to your loan.
>
> ☐ YES, add Credit Life Insurance to my loan. _____
>
> (Initial here)

After testing this disclosure, the Board adopted the following conclusions:[26]

- ***Almost all interview participants understood from their reading of this section of the form that credit life insurance is not required.*** All understood that this insurance would have a monthly cost associated with it and that this cost was not included in the monthly payments shown elsewhere on the form. (emphasis added)

[25] *Summary of Findings: Design and Testing of Truth in Lending Disclosures for Closed-end Mortgages*, July 16, 2009, submitted to the Federal Reserve Board by ICF Macro and published on the FRB website, Appendix D (Page 144 of the PDF).
[26] Id. at p. 47

- ***After reading this section of the form, several participants commented that credit life insurance sounded like an important loan feature and indicated that they would want to enroll.*** (emphasis added)

This clearly shows, if we are to rely on the Board's own testing, that consumers understood the current disclosures required by TILA. There is simply no evidence in the record that supports the Board making changes to the currently-mandated disclosures under Reg Z.

F. Results are clear

In study after study, consumers have expressed a high level of satisfaction with credit insurance and debt protection programs. Independent studies confirm it. The Board's own periodic surveys confirm it. NAIC complaint reporting confirms it. Hundreds of customer testimonials confirm it.

Now more than ever, many consumers are experiencing financial concerns such as increasing debt and medical costs, lower home values and savings, and job insecurity. Many consumers have no insurance at all, and even more still are underinsured. These factors combined create an environment in which the benefits provided by credit insurance and debt protection programs are more vital than ever, making the bias against these programs as evidenced by the proposed disclosures truly indefensible.

IV. Content of the Disclosures Fatally Flawed

A. Lack of balance of risks

We understand that a principal concern for the Board is making sure that consumers "understand the risks of purchase" of a product. While that is an important aspect of risk to consider when contemplating the purchase of a credit protection product, it is only half of the risk equation. What must also be considered by the consumer is whether or not he or she is in a position to bear the risk that is *retained* by the consumer when he or she elects not to purchase a risk-transferring product such as credit insurance, debt cancellation, or debt suspension coverage.

A loan is a new financial obligation, and as a result a wise and informed borrower is compelled to review his or her protection profile each time a new obligation is added. The consumer should ask: How critical is this loan (and the assets it purchases) to my family's future? What will happen to the loan if I die? Or become disabled? Or lose my job? Will I or my family be able to meet the ongoing payments if the unexpected happens? What happens if we don't? And even if my family can make the payments, what other resources and goals will be impacted, and how severely, by moving those funds over to cover this loan obligation?

It is only by developing a full understanding of both sides of the risk equation that a consumer can make an informed decision. As discussed previously, in many instances the loan officer is precluded by law from providing "the rest of the story." The proposed disclosure fails to provide the consumer with this important balanced perspective, and as a result, is fatally flawed as a tool to enhance informed consumer choice.

B. Factually inaccurate and misleading

The Proposed Credit Protection Disclosures are Factually Inaccurate, Misleading, Negatively-Biased, and Confusing to Consumers. The Board's proposed disclosures are based on inaccurate and uninformed assumptions regarding insurance generally, and credit insurance specifically. As a result, the content of the disclosures are not only biased and unfair, but also misleading to consumers of these products.

To illustrate, we present the disclosure statements in the order in which they occur:

1. **"STOP.** You do **not** have to buy Credit Life Insurance to get this loan**." (Negatively Biased)**

When viewed it its most favorable light, this proposed statement is a clear warning to consumers that the purchase of this product may be unwise. At worst, it is an outright attempt to stop consumers from considering the product. There is no need to use such jarring, negative language to accomplish the Board's stated goal. A far more appropriate phrasing would be to remove the alarmist "STOP" and instead use language which simply affirms that purchase is optional, such as the following:

> *"**THIS PRODUCT IS OPTIONAL**. You do **not** have to buy credit life insurance to get this loan."*

2. **"**If you already have enough insurance or savings to pay off this loan if you die, you may not need this product**." (Misleading)**

A disclosure such as this is particularly misleading because it increases the likelihood that borrowers will make decisions that leave their loved ones insufficiently protected against catastrophic loss.

Purchase of credit insurance provides a valuable benefit to borrowers – even to those who already have their own insurance – because they will not have to deplete their existing coverage in order to continue to make their loan payments. For example, if the original reason for purchasing a life insurance policy was to assure that funds are available to pay college expenses for the borrower's children, the purchase of credit protection will help assure that the proceeds of the individual life policy remain untouched and available to fulfill their original intended purpose.

Only by securing life coverage sufficient to meet the borrower's enduring financial obligations does a borrower provide true security for his or her survivors in the event of the borrower's death. Accordingly, an argument could be made that the disclosure should deliver the opposite message (e.g., "unless you already have sufficient life insurance to protect your family's financial needs and this loan in the event you die, you may **need** this insurance"). The disclosure, as presently worded, tells borrowers that so long as they have some other assets somewhere, they need not worry about protecting this new loan. That statement is misleading and does a disservice to consumers.

In lieu of the language proposed by the Board for the section entitled "**Do I need this product?**" we would suggest the following alternative disclosure:

> *"Credit life supplements any existing life insurance you may have by providing*

protection for this loan. You may wish to speak with your insurance agent about your insurance needs."

3. **"**Other types of insurance can give you similar benefits and are often less expensive.**" (Factually Inaccurate)**

This statement implies, for example, that term life insurance products are interchangeable with credit life insurance products, the only difference being the cost to the consumer. Nothing could be further from the truth. Nearly every aspect of the products are dissimilar from one another. While both types of products provide benefits upon the insured's death, the similarity stops there. Consider the following:

Attribute	Credit Life	Term Life
Face Amount	Tied to loan balance.	Generally available only at significantly higher face amounts of $50,000 to $100,000 or more.
Scope of Application	Short application with one or two health questions. No consideration given to consumer's other health issues, body type, occupation, smoking status, or recreational interests.	Lengthy application process (typical term life policy has a multi-part application spanning five to ten pages, including over two dozen questions regarding the consumer's finances and family and health history, covering broad array of health concerns and diseases, including smoking, prescription drugs, cancer, diabetes, seizures, and depression). All items are factored in to determine if table rated.
Application Process	Need only answer one or two basic eligibility questions at loan closing while conveniently sitting in the bank's branch.	Multi-page application with dozens of questions. Detailed responses are required for all questions; consumer's medical and financial records are obtained and reviewed by the insurer. In many cases, blood and urine samples are required to be collected.
Rates	Fixed. Rates are mandated by state law.	Rates vary dramatically from person to person. **If** the applicant even qualifies for coverage, the rate depends on the term of the policy, the insured's age, health, occupation, recreational interests, smoking status, and the amount of coverage.
Impact of Age	Rates are identical for all eligible insureds regardless of age.	Costs of term coverage rises exponentially with age.
Total Cost	Limited to the cost to protect the specific loan.	Insured must pay the full cost of $50,000 to $100,000 or more of life insurance.

Perhaps most importantly, alternative coverage at a better price is simply not available to many consumers (such as those over age 40, or those at any age who have existing health issues or other

ratable characteristics),[27] which makes the proposed disclosure language misleading and a disservice to consumers.

If this disclosure is adopted, many consumers will forego the opportunity to purchase credit insurance, only to learn later than the alternative coverage referred to in the government-mandated disclosure is either unavailable to them or is available in much larger amounts at a higher monthly cost. We ask that this factually inaccurate statement be removed from the proposed disclosure.

4. **"**This product will cost up to **$118 per month**. The cost depends on your loan balance**." (Misleading)**

We have the following concerns and objections to the proposed cost disclosure:

Open-end Disclosure. The proposal requires that a dollar amount be disclosed based on the maximum credit limit of the loan. This is misleading and unhelpful to the consumer. Rarely, if ever, will borrowers immediately max out their line of credit. Instead, borrowers will immediately take a draw that is significantly lower than the maximum credit limit. In such a case, the creditor would be making a disclosure that has no meaning to the borrower, and does NOT tell the borrower what the premium is "now", for the existing draw. We offer two alternatives.

First, we believe the unit-cost disclosure should be retained. The Board has suggested a different disclosure because it discovered that consumers cannot make the calculation needed to determine the cost of the product. In doing so, the Board tested the following disclosure:

> 72 cents per month per $1,000 of monthly outstanding balance . . .

Our data shows that consumers can make the calculation, if the following disclosure is used, with an additional instructional statement:

> The cost of this product is $0.72 per $1,000 of your outstanding loan balance each month. *To calculate the monthly cost of this product, divide your loan amount by 1,000, and then multiply by 0.72*.

CCIA tested this disclosure by providing it to 400 consumers and asking them to calculate the premium for a $25,000 loan. Of those tested, 67% were able to make the calculation accurately. We therefore ask that the unit cost disclosure be retained for open-end loans, with the additional requirement that the above instructional sentence be included. This will provide the consumer the ability to calculate their premium for any given outstanding balance they may have on their open-end loan at any given time. This provides optimal information to the consumer.

[27] For an exceptionally well-documented critique of the fallacies of the Board's argument regarding comparative coverage, I direct the Board to the expansive discussion contained in the comment letter submitted December 20, 2010, by my colleague at Securian, Catherine Klimek, Esq., which analyzes in extensive detail the inaccuracies in the contention that cheaper coverage is universally available to consumers through other products.

Alternatively, we ask that the disclosure be based on $1,000 rather than the maximum credit limit. This will give a consumer a good idea of the cost of the product in increments rather than the entire credit limit, which more closely resembles the behavior of consumers as they take draws on their account. It would also provide them the ability to estimate the cost for other outstanding balance amounts. For example, if the monthly cost is 72 cents for a $1,000 balance, consumers can estimate that the cost when they have a $2,000 balance would be $1.44 per month, and so forth.

Closed-end Loans. For closed-end loans, the rule would require that the maximum cost be disclosed per period, together with a statement that the cost depends on the consumer's balance or interest rate. The model form states:

"This product will cost up to **$118 per month**. The cost depends on your loan balance."

We object to this language for a number of reasons. First, telling a consumer that the cost depends on the loan balance for closed-end loans does not provide consumers with important and useful price information applicable to their particular loan. Closed-end loan balances do not increase and decrease periodically as they do for open-end loans. But the disclosure makes it sound as if the cost is going to fluctuate randomly or periodically over time. This is not the case. The disclosure also lacks precision and therefore does not tell the consumer how the cost works for a particular loan and credit protection product. For example, most short-term credit insurance products are "monthly outstanding balance, decreasing premium". This means that the premium is charged and collected monthly, and the monthly cost decreases each month as the outstanding balance decreases (assuming the consumer makes all scheduled payments timely). The Board's disclosure makes it sound like the cost will always be $118 per month; this grossly overstates the cost by of the product over the life of the loan.

For example, on a $100,000 loan with a term of 120 months and an interest rate of 5.0%, the first month's premium – based upon state-mandated prima facie rates[28] – would be $61.50. The cost of insurance decreases each month after that as the consumer pays down the balance. Assuming the loan is paid in full and on-time, the total cost of the coverage would be $4,070.86. If, however, a consumer were to take the Board's disclosure on its face, and calculate $61.50 x 120 months, it would appear that the total cost is $7,380.00. The Board's disclosure overstates the premium by 181%.[29]

We also are concerned that characterizing the cost disclosure as a maximum and using the Board's proposed disclosure could subject financial institutions and insurers to unnecessary litigation risk and consumer complaints. While we understand and agree with the premise that the disclosure is based on circumstances as of the date of consummation, so that rate changes, late payments, etc. that occur after consummation does not make the disclosure inaccurate for Reg Z purposes, it can lead the consumer to believe that the cost will never be more than, e.g., $118 per month. While in most cases this will be

[28] Calculations are based upon prima facie rates filed and approved in Minnesota. These rates approximate the average rates available in states nationally.

true, occasionally it may not. In the case where an insurer increases rates later, or the borrower misses payments, modifies the loan, or other circumstances occur that could increase the premium amount, the disclosure could provide a consumer with a document that he purports to be contractual in nature that can be used against the creditor and/or insurer.

We believe the better approach is to explain that the disclosure is based on the borrower's initial loan balance, and to explain how the cost will change for that particular product or how the cost affects the loan and the borrower's payments. In the case of decreasing term MOB products, we suggest that the disclosure would be more accurate and helpful to the consumer if it stated:

> *Based on your initial loan amount, the cost of this product will be **$72.00 in the first month**, and is scheduled to decrease each month as your loan balance decreases.*

For single-premium products, which add the total cost of the premium into the Amount financed, an accurate disclosure might read:

> *Based on your initial loan amount, the total cost of this product will be **$533.46**. This amount will be added to your loan balance, becomes part of your monthly loan payment, and will be paid down as your loan payments are made.*

Based on the above, we suggest that 226.4(d)(1)(i)(D)(3) be revised to read:

> *(3)(a) for open-end loans, the unit cost of the premium or charge, together with the following instructional statement: To calculate the monthly cost of this product, divide your loan amount by __, and then multiply by ___.*
>
> *(3)(b) for closed-end loans, a statement of the maximum premium or charge per period, together with a statement explaining how the premium or charge will change for that particular product or how the cost affects the loan and the borrower's payments.*

We also ask that the above examples be added to the Commentary.

Other comments regarding the cost disclosure. We seek clarification of proposed Comment 16 to section 226.4(d)(1). This Comment states, *inter alia*:

> The creditor must use the maximum rate under the policy or coverage.

We ask that this statement be revised to require the maximum rate that would apply to the particular consumer receiving the disclosure. Many policies have different rates based on age, health, etc. We ask that this statement be changed to:

> *The creditor must use the maximum rate under the policy or coverage that applies to the consumer receiving the disclosure.*

For the reasons above, we ask the Board to retain the unit-cost disclosure for open-end loans (with the additional instructional statement), and to restructure the disclosure requirements for closed-end loans as outlined above.

5. **"**You may not receive any benefits even if you buy this product**."(Misleading)**

This statement is apparently an attempt to inform the consumer there are eligibility requirements, conditions and exclusions that could prevent him or her from receiving benefits under the policy. However, this is not what the language conveys. The statement makes it sound as if provider can simply deny claims at will.

As anyone familiar with the insurance industry knows, this is far from the truth – all claims to which the insured is legally entitled must be paid. Our obligation to our insureds is a sacred trust; they paid their premium and we made a commitment to provide benefits in their time of need. We expect to pay, and we do.

One only has to recall the consumer complaint data cited earlier to know that we meet our benefit obligations. Clearly, the inference that the credit insurance industry does not pay benefits when due is inaccurate and misleading in the extreme.

This proposed statement should be deleted in its entirety. We propose alternative language below.

6. **"**You meet the [age] eligibility requirements, but there are other requirements that you must meet. If you do not meet these requirements, you will not receive any benefits even if you buy this product and pay the monthly premium.**" (Misleading)**

Yes, it is true. There are other requirements. For example, to be eligible for payment of credit life benefits the *insured is required to have died*. But aside from mandating that the covered event actually occur, the additional requirements in credit insurance policies are few and far between. For example, most policies have an exclusion for suicide within a certain period following purchase. This is generally required by state law to protect an insurer's "safety and soundness". And many states premise their promulgated rates on the inclusion of limited exclusion (6 months to two years) for a small number of recently diagnosed serious medical conditions (e.g. – cancer, heart attack, stroke, cirrhosis, and HIV/AIDS). Again, this is to protect the insurer from those on their "death bed" taking out large loans and insuring them in the days prior to dying. As every *insurance* regulator knows, no system of insurance protection could exist over time without such limitations.

Yet in reading this disclosure one is left with the impression that purchasing credit insurance is akin to buying a lottery ticket, where, if you are really lucky, you might actually receive benefits. The misleading and negative impression this statement creates in the mind of the borrower does little to advance informed consumerism. In fact, it does the opposite, leaving would-be purchasers with the impression that he or she will not receive benefits according to the terms of the contract into which they have entered. As such, we suggest that this language be stricken from the proposal, and replaced with the following:

"You meet the initial age eligibility requirement. However, there are other eligibility requirements, conditions, and exclusions that could prevent you from receiving benefits under this product. For example, benefits would not be paid if your death is a result of suicide [within the first two years].

You should carefully read the product contract for details."

Alternatively, we suggest that the disclosure be revised to read as follows:

"There are eligibility requirements, conditions, and exclusions that could prevent you from receiving benefits under this product. You should carefully read our additional information and/or the contract for a full explanation."

This language is mandated by the OCC under its debt protection rules. It is objective and factual and tells the consumer where to find further explanation, with no underlying tone of bias or negativity.

7. **"**Yes, I want to purchase optional Credit Life Insurance at a cost of up to $118 per month**." (Negatively Biased)**

So if the tabular format works so well as a disclosure mechanism, we are at a loss as to why the exact same information needs to be repeated again just inches further down the disclosure. It was underlined and put in bold just sentences earlier, so why post it once again? The reason appears clear: the Board is taking one last chance to convey its negative bias and try to talk the consumer out of purchasing the product.

C. Unambiguously slanted when considered in totality

As disturbing as the factual inaccuracies and misleading nature of the disclosure statements above are, it is the tone of disclosure as a whole and the message it sends to would-be buyers that is truly most egregious. Consider the language of the disclosure when read in order:

*"**STOP**….You do **not** have to buy Credit Insurance to get this loan….If you already have enough insurance or savings to pay off this loan, you may not need this product….Other types of insurance can give you similar benefits and are often less expensive….**You may not receive any benefits even if you buy this product**….there are other requirements you must meet….If you do not meet [ ] other requirements, you will not receive any benefits even if you buy this product and pay the monthly premium…."*

Then the consumer decides if he or she "want[s] to purchase this product at a cost of up to *[the repeated again for a second time]* maximum cost?"

Given the clear anti-credit insurance bias of the disclosure as a whole, we respectfully submit that what the Board has crafted is fundamentally equivalent to a "disclosure" comprised of the single question:

"Are you really dumb enough to buy credit insurance?"

This can't be the Board's intent. If the proposed disclosures are adopted, they will undoubtedly lead to consumers in large numbers declining the product, not because they were aware of all the pros and cons of the product, but because the government told them that it was a bad product. The Board's own consumer surveys prove this.

Instead of providing objective disclosures to fully inform the consumer of the cost of credit, the Board is advocating that consumers not purchase the product, and it has based this admonition on misconceptions and clear misunderstanding of the products. The Board's role is to provide objective disclosures regarding the cost of credit so consumers can make an informed choice when obtaining loans. It is not to provide substantive advice regarding the purchase of credit insurance and debt protection products.

We call on the Board to withdraw these disclosures and return to its time-honored role as a thoughtful and effective regulatory body, a role that it has effectively fulfilled for decades.

V. Board's ICF Macro Consumer Surveys Fatally Flawed

The Federal Reserve Board should not rely on the ICF surveys (2009/2010) as support for the new disclosure requirement for "credit protection products". ICF did not seek the input of consumers or the credit protection product industry in creating its new disclosure form and did not test the current Reg Z disclosures in its surveys. In the 2010 survey ICF tested its disclosures on only 18 participants (10 in one round and 8 in the final round), far from a statistically valid or representative sampling.[30] It tested only a credit life disclosure even though there are multiple variations in loans, products, premium differentials, etc. in the marketplace.[31] The proposed disclosure is not "one size fits all".

We substantiate our position with a review of the 2009/2010 testing process. In 2009 ICF tested its first proposal (C1, C2, C3) and concluded that a number of participants did not understand that credit life insurance was optional and could be declined in order to lower the cost of the loan.

In subsequent rounds of testing its credit insurance disclosure ICF changed the section heading from "Optional Features" to "**ARE THERE ANY FEATURES THAT I COULD ELIMINATE TO SAVE MONEY ON THIS LOAN?"** (D1, D2, D3), to **"OPTIONS WITH ADDITIONAL COSTS** (Adding additional verbiage that it is not required) (E1, E2, F1, F2), removing the references to "Reduced Documentation" (D2) and "Owner's Title Insurance" (E1), thus leaving only "credit life insurance" in the new section of the disclosure. (E1, E2, F1, F2) After this testing, ICF, in consultation with Board staff, concluded that:

- "Almost all participants were somewhat familiar with credit life insurance before seeing the

[30] R-1390 at 9; 2. Credit Protection Products Testing and Findings. The Board and ICF Macro also developed and tested model and sample forms for credit protection products in the last two rounds of 18 interviews—one round with 10 participants for HELOCs, and one round with 8 participants for closed-end mortgages.

[31] ICF Macro , Design & Testing of Periodic Statistics for Home Equity Loans, Disclosures about Changes to Home Equity Loan Credit Limits and Disclosures About Credit Protection Products, at 22 (July 2010).

form; only one indicated that he had never heard of this feature before." (at 47)

- "Almost all interview participants understood from their reading of this section of the form that credit life insurance is not required. All understood that this insurance would have a monthly cost associated with it and that this cost was not included in the monthly payments shown elsewhere on the form." (at 47)
- "After reading this section of the form, several participants commented that credit life insurance sounded like an important loan feature and indicated that they would want to enroll." (at 47)
- "Based on the findings from this round, the Board staff was concerned that the presence of information about credit life insurance on the first page of the TILA statement increased awareness of the product, but did not make consumers aware that they might not qualify for the product's benefits. Therefore the decision was made to remove this information from the TILA statement and to add language to alert consumers that they might not be eligible for benefits from the insurance." (at 50)

ICF and Board staff suddenly shifted focus from TILA's actual requirements to biased, false, and misleading statements in two new, separate page disclosures. The first of these disclosures includes the bolded warning "**STOP"** and informs the customer that: 1) "You do **not** have to buy this insurance to get this loan", and 2) "If you have insurance already, this policy may not provide you with any additional benefits."

"STOP" is an alarmist word that has no clear meaning in this context. Does it mean STOP reading? STOP purchasing? By emphasizing "**not**" in "You do **not** have to this insurance to get this loan", the Board again employs jarring language that is utilized to make the consumer wary of the product. The statement "If you have insurance already, this policy may not provide you with any additional benefits" is simply not a true statement. Credit life benefits are NEVER denied simply because other insurance is in force.

The stated goal for this disclosure is "to alert consumers that they might not be eligible for benefits from the insurance" (at 50). ICF and Board staff reached the following conclusions about this disclosure concerning credit insurance (at 64):

- "All [ten] participants understood after reading the text that there was an additional cost for credit life insurance."
- When asked whether they would sign up for credit life insurance based on the notice they were shown, three indicated that they would. Two said that they would consult their own life insurance policies first to see whether additional coverage was necessary. The remaining participants were unsure whether they would sign up."
- "Only three participants noticed the language that indicated even if you pay for credit life insurance, you may not receive any benefit from the policy."
- "All interview participants noticed the reference to the Board website in the credit life

statement. Most indicated that they would be likely to visit this site if they had questions about this product."

- "Although most participants also saw the reference to a housing counselor, only four indicated they would be likely to contact a counselor to obtain more information. Others said they would be more likely to go to the website shown."

Upon review of the above responses ICF and Board staff concluded (at 66): "While participants understood most of the content in the credit life insurance disclosure tested this round, most did not realize that purchasing this insurance might not provide them with any additional benefits. Therefore, this information was made more prominent in the version of this disclosure tested in the next round."

A new form was then designed to include the statements: "Other types of insurance can give you similar benefits and are often less expensive" and "Even if you pay for this insurance, you may not qualify to receive any benefits in the future."

This form continues to use the warning word "**STOP**" and emphasizes "**not**" so as to be alarmist. It continues to use the statement "If you have insurance already, this policy may not provide you with any additional benefits." It then adds an additional bullet point stating: "Other types of insurance can give you similar benefits and are often less expensive." This statement is not true. The average size credit life policy is $8,034.[32] Term insurance is not available in this amount and the cost per thousand is less than the cost for a $50,000 term life policy considering premium and policy fees (extrapolating down the rates).[33]

A third bullet point is added stating: "Even if you pay for this insurance, you may not qualify to receive any benefits in the future." This statement is true for all insurance policies. This apparently refers to policy exclusions or conditions which are always included in the policy or certificate and are regulated by every state. A copy of the policy or certificate is required to be delivered to the consumer. However, *the way in which this fact is presented is presented to the consumer is not only misleading, but is clearly intended to alarm the consumer*.

ICF and Board staff reached the following conclusions following the testing of this specific disclosure form (at 72-73):

- "All participants understood after reading the notice that credit life insurance was not a required feature."

- "Participants generally understood the first two bulleted statements. Most participants were surprised by the third statement, which stated that even if they paid for the insurance they may 'not qualify to receive benefits in the future." A few indicated they did not understand how they could pay for coverage and then receive no benefits. Despite their surprise, participants seemed to understand the statement; all but two correctly indicated that if they purchased the coverage

[32] ACLI Fact Book (2009).
[33] Study, Hause Actuarial Solutions, Inc. (2010)

and then died, the insurance would not necessarily pay off their loan. Most assumed that the reason a borrower would not be covered would be because of preexisting medical conditions or suicide."

- "When asked whether they would purchase credit life insurance, all but one participant indicated they would not – in fact, one participant had recently purchased credit life insurance and was planning to re-read the paperwork after the interview. The remaining participant, however, indicated he would purchase credit life insurance after reading the notice."

This disclosure caused nine out of ten participants to indicate that they would not purchase the product, unlike the many participants responding to the earlier form stating that "credit life insurance sounded like an important loan feature" and indicating "they would want to enroll".

As the summary of the 2009 ICF study stated (at 85):

> "The results of the research described in this report will inform the Board's proposed revisions to Regulation Z, which are scheduled for release in July 2009. The disclosure forms developed through iterative testing will be released with the proposal as model forms and clauses. By relying heavily on direct consumer testing in the development of these forms, the Board hopes to ensure that its new regulations will lead to financial disclosures that will be easier for consumers to read and understand, and as a result will help them make well-informed financial decisions."

Unfortunately, since much of the information used in the credit life testing was untrue and misleading, it therefore led ICF and Board staff to reach incorrect conclusions. The Board then published its proposed regulations in August 2009, including the last disclosure referred to above.

In the 2010 survey ICF Macro, in consultation with Board staff, tested yet another set of "revised" disclosures (CI-1 and CI-2) and found, shockingly, that **based on the new disclosures, that consumers would not purchase the credit life insurance product.**

Form CI-1, tested in Phoenix, 1) twice tells the consumer that credit life is "optional"; 2) tells him/her to "**STOP"**; 3) you do **not** have to buy this product; 4) you may not need this product; 5) other products are less expensive; 6) "**Note that you may not qualify for benefits if you buy this product";** 7) you won't receive any benefits if you don't meet the eligibility requirements, and 8) that if you wait more than 30 days to cancel you won't get a refund.

The alarmist language remains in this disclosure, adding "you may not need this product". Then, in bold type, the form adds "**Note that you may not qualify for benefits if you buy this product**." ICF Macro also adds an incorrect and false statement, "If you cancel after that [30 days], you will not receive a refund." All credit insurance policies are cancellable in the first 30 days with a full refund and after that a refund of unearned premium is due to the consumer. The ICF Macro statement is wrong and, again, misleading.

On page 14 of the 2010 ICF study the following three key conclusions were stated by ICF and Board staff:

- "In participants' initial reading of the disclosure, eight of the 10 participants commented on the fact that they might not receive benefits even after purchasing the product and making payments for a number of years. In most cases, participants were surprised by this and indicated that it made them less likely to purchase the insurance."

- "All but one participant saw from the form that they could cancel the insurance and receive a refund within the first 30 days."

- "After reviewing the form, seven of the 10 participants indicated that they would not buy the product. One said that she would buy the product, while two others indicated that they were unsure. Those who were unsure said that they would call their broker or financial adviser for additional information before making a decision."

Form CI-2, tested in Memphis, goes to the tabular format presented in the proposed rule and includes all the above listed admonitions effectively warning the consumer not to buy credit protection products. Again, the Board feels that it is necessary to tell the consumer that 1) credit life is optional (*twice*); 2) he/she should "**STOP**"; 3) he/she does **not** have to buy the insurance; 4) he/she should go to the Board's website for more information about why he/she should not buy this product; 5) he/she may not need this product; 6) there are less expensive products out there; 7) even if he/she pays the premium they might not be eligible for benefits; and 8) if they wait more than 30 days to cancel he/she will not get a refund. CI-2 also includes questions regarding maximum benefits, costs, co-borrowers, and length of coverage as well as an affirmation that the consumer desires to purchase the optional credit life insurance at an additional cost for a maximum benefit over a set time period.

At 12-13, ICF Macro states its key interview findings:

- "Two of the eight participants understood before reading the disclosure that credit life insurance was a product that could help pay off a mortgage loan in the event of death. One said that he had heard of the product 'in the context of car loans', while another thought it was insurance that would make mortgage payments if a borrower lost their job. The other four participants had never heard of credit life insurance before reading the disclosure."

- "After reading the disclosure, five participants expressed surprise that they might not receive benefits even after purchasing the product and making payments for a number of years. Five were also surprised that the insurance lasted for only the first ten years of their loan. Two participants were surprised that their co-borrower would not be covered." (Note: Insurance on co-borrowers is usually available for an additional cost.)

- "All participants understood that credit life insurance was not required on their loan."

- "CI-2 disclosed the cost of the product as a dollar figure based on the loan amount, rather than as a unit cost as in CI-1. All participants who saw CI-2 understood that the product would cost them $72 a month if they purchased it."

- "On CI-2 the maximum benefit was disclosed in the question-and-answer table, rather than near the signature line as in CI-1. When participants were asked how much the insurance company would pay if they had a loan balance of $200,000 when they died, all participants who saw CI-2 understood that their benefit would be capped at $100,000."

- "Six of the eight participants understood that if they died after purchasing the insurance they might not be eligible for benefits. The remaining two participants did not see this information in the notice. When this information was pointed out to one of these two, he said that he might not be eligible for benefits because he had not purchased the product."

- "All but one participant understood that they could cancel the insurance after 30 days, and that if they did they would receive a refund. The remaining participant did not see this information in the notice. All but one participant also understood that they could cancel the insurance after a year if they wished to do so. One participant incorrectly thought that he could obtain refund if he did so; others understood that they could not."

- "All participants recognized that if their spouse died, they would receive no benefits unless they had also purchased their own credit life insurance policy."

- "When asked what they would do if they were unsure whether to purchase credit life insurance, two participants said they would use the website listed in the notice. Other participants said they would research the product online (but did not mention the website in the disclosure), or indicated that they would talk to a financial advisor or insurance agent."

- "When it was pointed out to them, all but one participant indicated they might use the website in the notice. When asked what information they would be looking for, most participants said they would want to learn more about the eligibility requirements for the product. One said that she would want to know the 'pros and cons' of having credit life insurance."

- "All participants indicated that based on what they had read in the disclosure, they would not purchase credit life insurance."

ICF Macro and Board staff finally composed a disclosure in which all the participants concurred that they would not buy the product.

The final sentence in the ICF Macro study concludes: "Consumer testing results indicate that the revised forms communicate important information in a clear and effective way, which should enable consumers to comprehend complex information and make informed financial decisions." Yet, what actually occurred was the exact opposite: the revised forms communicated untrue statements which led to incorrect conclusions by ICF Macro and the Board staff.

The language used by ICF Macro pointedly implied that credit protection products were of little or no value. ICF Macro's failure to understand the products that were the subject of the testing, combined with its factually inaccurate wording of the survey has tainted its work product, and rendered the surveys meaningless. Absent competent consumer testing supporting the efficacy of the proposed

language, and the record cannot sustain its adoption and the proposed disclosures must therefore be withdrawn.

VI. Additional Procedural Violations

A. The Board buried the regulation

Notwithstanding the very real problems with the content of the disclosures, perhaps the most compelling reason that the proposed disclosures should be withdrawn is because they were "buried in the fine print" of a very complex rulemaking, and as such were shielded from the notice of affected parties.

Section 553(c) of the federal Administrative Procedures Act states that the agency issuing a proposal "shall give interested persons an opportunity to participate in the rule making". We believe that this requirement has been violated by the way in which the Board issued its proposed changes to the credit protection rules.

In 2009, these proposed revisions were part of a combined 1,332-page, two-part proposal to make comprehensive changes to the Reg Z provisions regarding closed-end mortgage loans and home equity lines of credit.[34] On July 29, 2009, the Board issued a 3-page press release regarding the proposal. This press release characterized the proposal as one "intended to improve the disclosures consumers receive in connection with closed-end mortgages and home-equity lines of credit (HELOCs)". The press release concentrated solely on the mortgage and HELOC revisions, and made no mention of credit protection products whatsoever. Additionally, as part of the issuance, the Board also released a two-page "Highlights" document summarizing the "major changes" contained in the proposal. Again, this document makes no mention of credit protection products at all.

This procedure did not put interested persons on notice that the credit protection revisions were being proposed. As a result of this "hide the ball" approach to regulation, relatively few comments were submitted by industry in 2009. Many in the industry were not given an opportunity to participate in the rulemaking.

Then, on August 16, 2010, this proposal was re-issued, again as a part of comprehensive changes to the mortgage rules under Reg Z. It was also one of five mortgage-related rulemakings released on that day. According to the Board's issuance, the second proposal reflects the results of consumer testing. On the Board's website, the proposal is described as a proposal "to enhance consumer protections and disclosures for home mortgage transactions as part of the second phase of a comprehensive review". In the 2010 press release regarding the proposal, the text again makes no mention of credit protection products. One must scroll down to the proposed Model Forms (assuming someone reads that far) to

[34] The rulemaking was broken into two separate proposals; one 672-page proposal regarding closed-end mortgages, and one 660-page proposal regarding HELOCs. The number of pages is based on the version issued by the Board prior to publication in the Federal Register, rather than the Federal Register version that appears in column format and significantly smaller font size..

find any reference to credit protection products; and even then, they are labeled as "HELOC" and "Closed-end Mortgage" Model Forms. There is no mention that the rules would also apply to consumer (non-real estate-secured) open-end and closed-end loans. In the 2010 Highlights document[35], it is not until the 6th bullet in the "other provisions" section on Page 2 that the Board mentions that changes to credit protection product disclosures are being proposed. And again, even then, this bullet is listed under a category heading of, "Other provisions related to *home-secured* credit."

The proposal is also particularly confusing and complex because the 2010 proposal does not incorporate the 2009 changes. The two proposals must be read together, along with the existing provisions of Reg Z, in order to determine exactly what would change under the Board's proposal.

B. Many parties fail to understand R-1390 applies to them

The way in which the changes were proposed has resulted in making many creditors and other interested parties unaware of the rulemaking, or making them believe that it does not apply to them. This means that many in the industry have been excluded from the rulemaking, and those that are involved, have come late to the game.

I know this situation exists from personal experience. Along with my colleague, Catherine Klimek, we have made personal and Webex presentations on the proposed changes to over 150 financial institutions, including some of the nation's largest and most prominent auto finance and commercial lending institutions. Many of these organizations indicated that their institution was completely unaware that the proposed rule changes impacted credit protection products.

Equally troublesome is the fact that this misunderstanding was not limited to banks and credit unions; product providers and insurance underwriters were similarly caught unaware. As word began to spread, I received numerous inquiries, by email, phone, and in-person contact, from industry peers (including top executives and legal counsel) who were unconvinced that the proposed disclosures impacted their business. All uniformly responded with the statement that *they would not be affected by the changes, since they didn't sell mortgage products*. It was only after we connected all the dots for them among the various proposals and requirements that they belatedly concluded that the changes impacted credit protection products on all types of consumer loans.

The obscure way in which the rules were issued also means that proposed disclosures were tested without significant input from the financial institutions who will have to implement them, and industry representatives who have the expertise and knowledge to draft effective, meaningful disclosures.

Securian has spent significant amounts of time, money, and energy trying to raise awareness of this issue among other insurance carriers and financial institutions across the country. Yet, many have heard about it too late to expend resources on this issue or to provide a meaningful response. And certainly many others are still not aware of the credit protection proposal or its impact on them. The Board has

[35] Copies of the press releases and related documents discussed in this section are attached as exhibits to comment letter submitted by my colleague at Securian, Catherine Klimek.

effectively excluded many interested persons and valuable input that it could have used to create a more balanced, objective rule. Neither the spirit, nor the language, of APA section 553(c) has been satisfied. This rulemaking should be withdrawn.

C. Proposed website content never put out for comment

The proposed disclosures in R-1390 refer consumers to a Federal website which is yet to be created. Given the strong bias that pervades the proposed disclosures, Securian is acutely concerned that such anti-industry bias would be carried over onto the website, as well.

Since the website will provide what amounts to additional, albeit, non-mandated disclosures about the products we provide, we conclude that the Board must publish and accept comment on all content to be included on this site before such a site would "go live." We believe that failure to so by the Board would constitute a violation of Section 553(c) of the federal Administrative Procedures Act.

VII. Inappropriate for the Board to Act

As we noted at the outset of this letter, Securian has always supported appropriate and effective product disclosure, as long as such disclosures are reasonable, factually accurate and do not mislead the borrower. The disclosures proposed in R-1390, however, fall woefully short of meeting this standard.

As we have outlined in this letter, we object to the Board's proposed credit protection product disclosures because:

1. The Board has not demonstrated a need for the expanded disclosures, and the record does not support the Board's actions.
2. The Board exceeds its authority under the Truth-in-Lending Act by expanding the scope and content of the disclosures.
3. The proposed changes wrongfully impugn important products that are both valued and deeply needed by significant segments of the public, including the underinsured, those ineligible for individual coverage, and those unable to afford more expensive traditional forms of protection.
4. The disclosures are factually inaccurate, misleading, and negatively biased against the products.
5. The disclosures were based on consumer research that is fatally flawed.
6. The rulemaking is rife with procedural errors.

These are just a sampling of the problems we see with R-1390. Given the Board's approach of attempting to regulate before fully understanding the products, the industry, the sales process and regulatory environment in which we operate, we can only imagine what additional unintended consequences will arise if this rule is adopted as proposed.

We conclude that the rulemaking as presently proposed is fatally flawed and does a disservice to consumers, financial institutions and product providers. Consequently, we **respectfully call upon the**

Board to withdraw proposed Rule R-1390 until it can demonstrate a substantive understanding of our products and industry, and can propose updated disclosures that are balanced, factually accurate, and within the scope of authority granted to the Board by Congress.

Sincerely,

/s/

William Komp
Associate Counsel
Securian Financial Group
400 Robert Street North
St. Paul, MN 55101

cc: Rep. Spencer Bachus, Chair, House Financial Services Committee (112th Congress)

Rep. Shelley Moore Capito, Chair, Subcommittee on Financial Institutions and Consumer Credit (112th Congress)

Senator Tim Johnson, Chair, Senate Banking Committee (112th Congress)

Senator Richard Shelby, Ranking Member, Senate Banking Committee (112th Congress)

Rep. Erik Paulsen, R-MN

Senator Amy Klobuchar, D-MN

VIII. Exhibits

Exhibit 1 - NAIC Complaint Summary

	Credit Insurance					
Year:	**2009**	**2008**	**2007**	**2006**	**2005**	**Total**
Policy Certs Issued:	17,758,375	21,293,527	21,978,666	24,842,174	25,519,672	**111,392,414**
Total Complaints:	509	506	506	513	630	**2,664**
One (1) Complaint For Every:	34,889	42,082	43,436	48,425	40,507	**41,814**
% Filing Complaint:	0.00287%	0.00238%	0.00230%	0.00207%	0.00247%	**0.00239%**

	Individual Life					
Year:	**2009**	**2008**	**2007**	**2006**	**2005**	**Total**
Policy Certs Issued:	125,504,657	127,413,457	129,303,513	130,653,583	131,506,096	**644,381,306**
Total Complaints:	8,718	8,507	9,221	7,455	8,012	**41,913**
One (1) Complaint For Every:	14,396	14,977	14,023	17,526	16,414	**15,374**
% Filing Complaint:	0.00695%	0.00668%	0.00713%	0.00571%	0.00609%	**0.00650%**

***Source : NAIC Closed Complaint Summary Index Reports (2005-2009)**

Ratio of Rates of Individual Life Complaints to Credit Insurance Complaints:	**2.72 : 1**

Exhibit 2 – Listing of States Allowing a Group Enrollment Exception

Enrollment States
(as of 08-16-2010)

The states indicated below have a bulletin or a provision in their licensing statutes which exempts from licensing requirements those persons who secure and furnish information for group insurance, enroll individuals in group plans, issue certificates or perform other administrative services in connection with a group plan.

Alabama	DC	Maine	New Jersey	Virginia
Alaska	Florida	Maryland	New York	Washington**
Arizona	Hawaii	Massachusetts	Ohio	Wisconsin
Arkansas	Illinois	Michigan	Pennsylvania	Wyoming
California*	Iowa	Mississippi	Rhode Island	
Colorado	Kansas	Missouri*	Tennessee	
Connecticut	Kentucky*	Montana**	Texas*	
Delaware	Louisiana*	New Hampshire	Vermont	

**In these states, the enrollment exemption applies provided the loan officer is named on the business entity license.*

*** Enrollment applies provided there is one licensed person per branch.*

Exhibit 3 - Sample Script for Unlicensed Employees in Enrollment States

Credit Life and Credit Disability

"Next Mr(s) _____, I'd like to talk with you about an ***optional*** Payment Protection insurance package we're able to offer you as an additional value-added service. ***It is not required to obtain credit*.**

This is a credit life insurance plan that will pay off or reduce your loan(s) if you should die, and a credit disability insurance plan that will take over your loan payments, up to the monthly maximum, if you should become disabled and be unable to continue working. The plan is underwritten by Minnesota Life Insurance Company.

The cost of Payment Protection on your loan would be $____ per month. ***You can check your loan application for additional details on the cost.***

By applying today, you do not need to take a physical exam. As long as you meet group eligibility requirements, you will be guaranteed coverage. ***Some exclusions and limitations do apply. Please refer to your application/certificate for those limitations and exclusions****.*

You have the right to examine this coverage for thirty days. If you are not satisfied you may cancel coverage by contacting Minnesota Life toll-free at (insert phone number)."

Exhibit 4 – Licensing States & State Education Requirements

In these states some degree of licensing is required in order to offer insurance. The resident licensing requirements are described below:

Georgia

Type of license: Credit Life and Health
Pre-Licensing: Yes
Exam: No
Continuing Education: Yes
Insurer Education Required: No

Idaho

Type of license: Limited Line Credit
Pre-Licensing: No – However, applicants must study the ID Producer Credit Pre-Licensing Manual Self-Study course.
Exam: Yes
Continuing Education: Yes
Insurer Education Required: Yes
Special Notes: Idaho has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

Indiana

Type of license: Limited Line Credit
Pre-Licensing: No – However, an instruction course must be completed prior to selling. Our reps go in and do a "class" and then have everyone complete the Course Completion Certificate to meet this requirement.
Exam: No
Continuing Education: No
Insurer Education Required: Yes
Special Notes: Indiana has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

Minnesota

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: Yes
Special Notes: Minnesota has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

Nebraska

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: Yes
Special Notes: Nebraska has adopted a group enrollment exemption, but does not apply to credit/mortgage products. The Insurance Department has stated they do not believe it applies to any situation where a health question is asked on the application for insurance and/or where the employee is answering questions about the insurance.

Nevada

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: No
Special Notes: Nevada has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

New Mexico

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: No
Special Notes: New Mexico has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

North Carolina

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: No
Special Notes: The NC Department of Insurance has stated that the group enrollment exemption does not apply to credit/mortgage products.

North Dakota

Type of license: Credit Life & Health
Pre-Licensing: No
Exam: Yes
Continuing Education: No
Insurer Education Required: No
Special Notes: The ND Department of Insurance has stated that the group enrollment exemption does not apply to credit/mortgage products.

Oklahoma

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: Yes. Limited lines producers are not exempt unless they completed an equivalent or greater continuing education requirement. The continuing education requirement in OK is 14 hours, biennially, of CE plus 2 hours of ethics courses.
Insurer Education Required: No
Special Notes: Oklahoma has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

Oregon

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: Yes
Special Notes: In response to an NAIC survey, Oregon indicated that they do not recognize the enrollment exemption for debt related products.

South Carolina

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: Yes
Special Notes: South Carolina has adopted a group enrollment exemption, but Bulletin 2003-03 clearly states that it does not apply to credit/mortgage products.

South Dakota

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: Yes
Special Notes: South Dakota has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

Utah

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: No
Special Notes: Utah has adopted a group enrollment exemption, but the Insurance Department has stated they do not believe it applies to credit/mortgage products.

West Virginia

Type of license: Limited Line Credit
Pre-Licensing: No
Exam: No
Continuing Education: No
Insurer Education Required: Yes
Special Notes: No employee can solicit coverage prior to the customer receiving notification of loan approval. All employees soliciting coverage after loan approval must obtain a limited line credit insurance license.

Exhibit 5 – Producer Licensing Model Act

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (N.A.I.C.)
MODEL LAWS, REGULATIONS AND GUIDELINES
N.A.I.C. MODEL LAWS, REGULATIONS AND GUIDELINES
VOLUME II
AGENTS/BROKERS/PRODUCERS
PRODUCER LICENSING MODEL ACT
NAIC 218-1

Table of Contents

Section 1. Purpose and Scope

This Act governs the qualifications and procedures for the licensing of insurance producers. It simplifies and organizes some statutory language to improve efficiency, permits the use of new technology and reduces costs associated with issuing and renewing insurance licenses.

This Act does not apply to excess and surplus lines agents and brokers licensed pursuant to Section [refer to state excess and surplus lines statutes] except as provided in Section 8 and Section 16B of this Act.

Drafting Note: It is recommended that any statute or regulation inconsistent with this Act be repealed or amended.

Drafting Note: This Act also requires a report to the insurance commissioner of the termination of a producer by an insurer, whether with or without cause.

Section 2. Definitions

A. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

B. "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

C. "Insurance" means any of the lines of authority in [insert reference to appropriate section of state law].

D. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

E. "Insurer" means [insert reference to appropriate section of state law].

F. "License" means a document issued by this state's insurance commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

G. "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance commissioner determines should be designated a form of limited line credit insurance.

H. "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

I. "Limited lines insurance" means those lines of insurance defined in [insert reference to state specific limited line statute] or any other line of insurance that the insurance commissioner deems necessary to recognize for the purposes of complying with Section 8E.

J. "Limited lines producer" means a person authorized by the insurance commissioner to sell, solicit or negotiate limited lines insurance.

K. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

L. "Person" means an individual or a business entity.

M. “Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

N. “Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

O. “Terminate” means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer’s authority to transact insurance.

P. “Uniform Business Entity Application” means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

Q. “Uniform Application” means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

Section 3. License Required

A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this Act.

Section 4. Exceptions to Licensing

A. Nothing in this Act shall be construed to require an insurer to obtain an insurance producer license. In this section, the term “insurer” does not include an insurer’s officers, directors, employees, subsidiaries or affiliates.

B. A license as an insurance producer shall not be required of the following:

(1) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:

(a) The officer, director or employee’s activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance; or

(b) The officer, director or employee’s function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(c) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person’s activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

(2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;

(3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director or trustees are engaged in the administration or operation of a program of employee benefits for the employer’s or association’s own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

(5) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(6) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

(7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

Drafting Note: Persons who provide general insurance advice in connection with providing other professional services such as legal services, trust services, tax and accounting services, financial planning and investment advisory services are not deemed to be soliciting the sale of insurance under this Act. Sections 3 and 4 of this Act are intended to address all persons meeting the definition of "insurance producer" as defined in Title III, Section 336, of Public Law No. 106-102 (the "Gramm-Leach-Bliley Act").

Section 5. Application for Examination

A. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to Section 9. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the insurance commissioner.

B. The insurance commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in [insert appropriate reference to state law or regulation].

C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the insurance commissioner as set forth in [insert appropriate reference to state law or regulation].

D. An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Drafting Note: A state may wish to prescribe by regulation limitations on the frequency of application for examination in addition to other prelicensing requirements.

Section 6. Application for License

A. A person applying for a resident insurance producer license shall make application to the insurance commissioner on the Uniform Application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the insurance commissioner shall find that the individual:

(1) Is at least eighteen (18) years of age;

(2) Has not committed any act that is a ground for denial, suspension or revocation set forth in Section 12;

(3) Where required by the insurance commissioner, has completed a prelicensing course of study for the lines of authority for which the person has applied;

Drafting Note: Paragraph (3) would apply only to those states that have prelicensing education requirements.

(4) Has paid the fees set forth in [insert appropriate reference to state law or regulation]; and

(5) Has successfully passed the examinations for the lines of authority for which the person has applied.

B. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the insurance commissioner shall find that:

(1) The business entity has paid the fees set forth in [insert appropriate reference to state law or regulation; and

(2) The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

Drafting Note: Subsection B is optional and would apply only to those states that have a business entity license requirement.

C. The insurance commissioner may require any documents reasonably necessary to verify the information contained in an application.

D. Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction that may be approved by the insurance commissioner.

Section 7. License

A. Unless denied licensure pursuant to Section 12, persons who have met the requirements of Sections 5 and 6 shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life—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.

(2) Accident and health or sickness—insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(3) Property—insurance coverage for the direct or consequential loss or damage to property of every kind.

(4) Casualty—insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(5) Variable life and variable annuity products—insurance coverage provided under variable life insurance contracts and variable annuities.

(6) Personal lines—property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Credit—limited line credit insurance.

(8) Any other line of insurance permitted under state laws or regulations.

B. An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in [insert appropriate reference to state law or regulation] is paid and education requirements for resident individual producers are met by the due date.

C. An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.

D. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance (e.g., a long-term medical disability) may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

Drafting Note: References to license "renewal" should be deleted in those states that do not require license renewal.

E. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date and any other information the insurance commissioner deems necessary.

F. Licensees shall inform the insurance commissioner by any means acceptable to the insurance commissioner of a change of address within thirty (30) days of the change. Failure to timely inform the insurance commissioner of a change in legal name or address shall result in a penalty pursuant to [insert appropriate reference to state law].

G. In order to assist in the performance of the insurance commissioner's duties, the insurance commissioner may contract with non-governmental entities, including the National Association of Insurance Commissioner (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the insurance commissioner and the non-governmental entity may deem appropriate.

Section 8. Nonresident Licensing

A. Unless denied licensure pursuant to Section 12, a nonresident person shall receive a nonresident producer license if:

(1) The person is currently licensed as a resident and in good standing in his or her home state;

(2) The person has submitted the proper request for licensure and has paid the fees required by [insert appropriate reference to state law or regulation];

(3) The person has submitted or transmitted to the insurance commissioner the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed Uniform Application; and

(4) The person's home state awards non-resident producer licenses to residents of this state on the same basis.

Drafting Note: In accordance with Public Law No. 106-102 (the "Gramm-Leach-Bliley Act") states should not require any additional attachments to the Uniform Application or impose any other conditions on applicants that exceed the information requested within the Uniform Application.

B. The insurance commissioner may verify the producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

C. A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application is required.

D. Notwithstanding any other provision of this Act, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license pursuant to Subsection A of this section. Except as to Subsection A, nothing in this section otherwise amends or supersedes any provision of [refer to state excess and surplus lines statutes].

E. Notwithstanding any other provision of this Act, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license, pursuant to Subsection A of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of Section 8E, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to Section 7A(1) through (6).

Section 9. Exemption from Examination

A. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's Producer Database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

B. A person licensed as an insurance producer in another state who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to Section 6. No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the insurance commissioner determines otherwise by regulation.

Section 10. Assumed Names

An insurance producer doing business under any name other than the producer's legal name is required to notify the insurance commissioner prior to using the assumed name.

Section 11. Temporary Licensing

A. The insurance commissioner may issue a temporary insurance producer license for a period not to exceed one hundred eighty (180) days without requiring an examination if the insurance commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(1) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

(2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

(3) To the designee of a licensed insurance producer entering active service in the armed forces of the United States of America; or

(4) In any other circumstance where the insurance commissioner deems that the public interest will best be served by the issuance of this license.

B. The insurance commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The insurance commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The insurance commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

Section 12. License Denial, Nonrenewal or Revocation

A. The insurance commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with [insert appropriate reference to state law] or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the insurance commissioner or of another state's insurance commissioner;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of a felony;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) Improperly using notes or any other reference material to complete an examination for an insurance license;

(12) Knowingly accepting insurance business from an individual who is not licensed;

(13) Failing to comply with an administrative or court order imposing a child support obligation; or

(14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

Drafting Note: Paragraph (14) is for those states that have a state income tax.

B. In the event that the action by the insurance commissioner is to nonrenew or to deny an application for a license, the insurance commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the insurance commissioner within [insert appropriate time period from state's administrative procedure act] for a hearing before the insurance commissioner to determine the reasonableness of the insurance commissioner's action. The hearing shall be held within [insert time period from state law] and shall be held pursuant to [insert appropriate reference to state law].

C. The license of a business entity may be suspended, revoked or refused if the insurance commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the insurance commissioner nor corrective action taken.

D. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine according to [insert appropriate reference to state law].

E. The insurance commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Act and Title [insert appropriate reference to state law] against any person who is under investigation for or charged with a violation of this Act or Title [insert appropriate reference to state law] even if the person's license or registration has been surrendered or has lapsed by operation of law.

Section 13. Commissions

A. An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this Act and is not so licensed.

B. A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this Act and is not so licensed.

C. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this Act at the time of the sale, solicitation or negotiation and was so licensed at that time.

D. An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate [insert appropriate reference to state law, i.e. citation to anti-rebating statute, if applicable].

Section 14. Appointments [Optional]

A. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

B. To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the insurance commissioner, a notice of appointment within fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

Drafting Note: The group appointment provision of Subsection B is only applicable in jurisdictions that have implemented an electronic appointment process.

C. [Optional] Upon receipt of the notice of appointment, the insurance commissioner shall verify within a reasonable time not to exceed thirty (30) days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the insurance commissioner shall notify the insurer within five (5) days of its determination.

D. An insurer shall pay an appointment fee, in the amount and method of payment set forth in [insert appropriate reference to state law or regulation], for each insurance producer appointed by the insurer.

E. [Optional] An insurer shall remit, in a manner prescribed by the insurance commissioner, a renewal appointment fee in the amount set forth in [insert appropriate reference to state law or regulation].

Drafting Note: This act designates as optional the section on appointments of producers by insurers. That designation recognizes that some states do not require the formal appointment of a producer before business can be conducted with an insurer or multiple insurers.

Section 15. Notification to Insurance Commissioner of Termination

A. Termination for Cause. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the insurance commissioner within thirty (30) days following the effective date of the termination, using a format

prescribed by the insurance commissioner, if the reason for termination is one of the reasons set forth in Section 12 or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 12. Upon the written request of the insurance commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

B. Termination Without Cause. An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason not set forth in Section 12, shall notify the insurance commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the insurance commissioner. Upon written request of the insurance commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

Drafting Note: Those states that do not require formal appointments may delete any reference to appointments in Subsections A and B above.

C. Ongoing Notification Requirement. The insurer or the authorized representative of the insurer shall promptly notify the insurance commissioner in a format acceptable to the insurance commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the insurance commissioner in accordance with Subsection A had the insurer then known of its existence.

D. Copy of Notification to be Provided to Producer.

(1) Within fifteen (15) days after making the notification required by Subsections A, B and C, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any of the reasons listed in Section 12, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(2) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the insurance commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the insurance commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under Subsection F.

E. Immunities

(1) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the insurance commissioner, or an organization of which the insurance commissioner is a member and that compiles the information and makes it available to other insurance commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the insurance commissioner, from an insurer or producer; or a statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under Subsection A was reported to the insurance commissioner, provided that the propriety of any termination for cause under Subsection A is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(2) In any action brought against a person that may have immunity under Paragraph (1) for making any statement required by this section or providing any information relating to any statement that may be requested by the insurance commissioner, the party bringing the action shall plead specifically in any allegation that Paragraph (1) does not apply because the person making the statement or providing the information did so with actual malice.

(3) Paragraph (1) or (2) shall not abrogate or modify any existing statutory or common law privileges or immunities.

F. Confidentiality

(1) Any documents, materials or other information in the control or possession of the department of insurance that is furnished by an insurer, producer or an employee or agent thereof acting on behalf of the insurer or producer, or obtained by the insurance commissioner in an investigation pursuant to this section shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the insurance commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part

of the insurance commissioner's duties.

(2) Neither the insurance commissioner nor any person who received documents, materials or other information while acting under the authority of the insurance commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to Paragraph (1).

(3) In order to assist in the performance of the insurance commissioner's duties under this Act, the insurance commissioner:

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Paragraph (1), with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(b) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(c) **[OPTIONAL]** May enter into agreements governing sharing and use of information consistent with this subsection.

Drafting Note: The language in Paragraph 3(a) assumes the recipient has the authority to protect the applicable confidentiality or privilege, but does not address the verification of that authority, which would presumably occur in the context of a broader information sharing agreement.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Paragraph (3).

(5) Nothing in this Act shall prohibit the insurance commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to [insert appropriate reference to state law] to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries of the National Association of Insurance Commissioners.

G. Penalties for Failing to Report. An insurer, the authorized representative of the insurer, or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with [insert appropriate reference to state law].

Section 16. Reciprocity

A. The insurance commissioner shall waive any requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by Section 8 of this Act, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

B. A nonresident producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the non-resident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

Drafting Note: States are encouraged to eliminate any licensing and appointment retaliatory fees. In accordance with Public Law No. 106-102 (the "Gramm-Leach-Bliley Act") states should not require non-resident fees that are so disparate from the resident fees that they impose a barrier to entry. Such fees would be prohibited under Public Law 106-102.

Section 17. Reporting of Actions

A. A producer shall report to the insurance commissioner any administrative action taken against the producer

in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

B. Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the insurance commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

Section 18. Compensation Disclosure

A. (1) Where any insurance producer or any affiliate of the producer receives any compensation from the customer for the placement of insurance or represents the customer with respect to that placement, neither that producer nor the affiliate shall accept or receive any compensation from an insurer or other third party for that placement of insurance unless the producer has, prior to the customer's purchase of insurance:

(a) Obtained the customer's documented acknowledgment that such compensation will be received by the producer or affiliate; and

(b) Disclosed the amount of compensation from the insurer or other third party for that placement. If the amount of compensation is not known at the time of disclosure, the producer shall disclose the specific method for calculating the compensation and, if possible, a reasonable estimate of the amount.

(2) Paragraph (1) shall not apply to an insurance producer who:

(a) Does not receive compensation from the customer for the placement of insurance; and

(b) In connection with that placement of insurance represents an insurer that has appointed the producer; and

(c) Discloses to the customer prior to the purchase of insurance:(i) That the insurance producer will receive compensation from an insurer in connection with that placement; or(ii) That, in connection with that placement of insurance, the insurance producer represents the insurer and that the producer may provide services to the customer for the insurer.

Drafting Note: In states where no appointment is required, the phrase "that has contractually authorized the producer to act as its legal agent" may be substituted for "that has appointed the producer."

B. A person shall not be considered a "customer" for purposes of this section if the person is merely:

(1) A participant or beneficiary of an employee benefit plan; or

(2) Covered by a group or blanket insurance policy or group annuity contract sold, solicited or negotiated by the insurance producer or affiliate.

C. This section shall not apply to:

(1) A person licensed as an insurance producer who acts only as an intermediary between an insurer and the customer's producer, for example a managing general agent, a sales manager, or wholesale broker; or

(2) A reinsurance intermediary.

D. For purposes of this section:

(1) "Affiliate" means a person that controls, is controlled by, or is under common control with the producer.

(2) "Compensation from an insurer or other third party" means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes or any other form of valuable consideration, whether or not payable pursuant to a written agreement.

(3) "Compensation from the customer" shall not include any fee or similar expense as provided in [insert reference to statutory provisions or regulations] or any fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner.

(4) "Documented acknowledgement" means the customer's written consent obtained prior to the customer's purchase of insurance. In the case of a purchase over the telephone or by electronic means for which written consent cannot reasonably be obtained, consent documented by the producer shall be acceptable.

E. This section shall take effect [insert date].

Drafting Note: States that are considering the licensing of business entities should reference Section 6B of the NAIC's Producer Licensing Model Act and the Uniform Application for Business Entity License/Registration, which address the licensing of a business entity acting as an insurance producer.

Section 19. Regulations

The insurance commissioner may, in accordance with [insert appropriate reference to state law], promulgate reasonable regulations as are necessary or proper to carry out the purposes of this Act.

Section 20. Severability

If any provisions of this Act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

Section 21. Effective Date

This Act shall take effect [insert date].

Note: A minimum of six months to one year implementation time for proper notice of changes, fees and procedures is recommended.

CREDIT(S)

Legislative History (all references are to the Proceedings of the NAIC).

1988 Proc. I 9, 18, 91, 101-102, 106-109 (adopted).

1989 Proc. I 9, 21, 125, 129, 135-142 (amended and reprinted).

1989 Proc. II 13, 22-23, 161, 166-167, 178-184, 189-190 (amended and reprinted).

1990 Proc. II 7, 13-14, 159-160, 192, 195 (amended).

1997 Proc. 3rd Quarter 25, 26, 1148, 1166-1168 (amended).

1999 Proc. 3rd Quarter 121, 123-136 (model adopted by parent committee).

2000 Proc. 1st Quarter 9-23, 33 (amended and reprinted).

2000 Proc. 3rd Quarter 7, 11, 36-45, 386, 403 (amended and reprinted).

2005 Proc. 1st Quarter 55, 56-57 (amended).

END OF DOCUMENT

Exhibit 6 – State Adoption Table for Producer Licensing Model Act

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (N.A.I.C.)
MODEL LAWS, REGULATIONS AND GUIDELINES
N.A.I.C. MODEL LAWS, REGULATIONS AND GUIDELINES
VOLUME II
AGENTS/BROKERS/PRODUCERS
PRODUCER LICENSING MODEL ACT
NAIC 218-17

State Adoption Table

KEY:
MODEL ADOPTION: States that have citations identified in this column adopted the NAIC model in a uniform and substantially similar manner. This requires states to adopt the model in its entirety but does allow for minor variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: States that have citations identified in this column have **not** adopted the NAIC model in a uniform and substantially similar manner. Examples of Related State Activity include: An older version of the NAIC model, legislation or regulation derived from other sources and Bulletins and Administrative Rulings.

NO ACTION TO DATE: No state activity on the topic as of the date of the most recent update.

NAIC MEMBER:
MODEL ADOPTION:
RELATED STATE ACTIVITY:

NAIC MEMBER: Alabama
MODEL ADOPTION: Ala. Code §§ 27-7-1 to 27-7-40 (1957/2002).
RELATED STATE ACTIVITY: Ala. Admin. Code r. 482-1-109-.01 to 482-1-109-.06 (1994/2009); 482-1-146-.07 (2009); BULLETIN 5-17-2010 (2010).

NAIC MEMBER: Alaska
MODEL ADOPTION: Alaska Stat. §§ 21.27.010 to 21.27.560 (1966/2009); § 21.90.900 (2006/2009).
RELATED STATE ACTIVITY: BULLETIN B04-14 (2004); BULLETIN 2006-11; BULLETIN 2009-8 (2009).

NAIC MEMBER: American Samoa
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Arizona
MODEL ADOPTION: Ariz. Rev. Stat. Ann. §§ 20-281 to 20-302 (2002/2005).
RELATED STATE ACTIVITY: BULLETIN 2009-4 (2009).

NAIC MEMBER: Arkansas
MODEL ADOPTION: Ark. Code Ann. §§ 23-64-501 to 23-64-520 (2001/2005).
RELATED STATE ACTIVITY: Ark. Code Ann. §§ 23-64-101 to 23-64-229 (1959/2009); § 23-64-301(2008/2009); BULLETIN 2-2000 (2000); BULLETIN 9-2004 (2004); BULLETIN 3-2006 (2006); BULLETIN

5-2008 (2008).

NAIC MEMBER: California
MODEL ADOPTION:
RELATED STATE ACTIVITY: Cal. Ins. Code §§ 1621 to 1758.994 (1959/2009); Cal. Code Regs. tit. 10, §§ 2186 to 2188.83 (2006/2010); BULLETIN 2009-7 (2009).

NAIC MEMBER: Colorado
MODEL ADOPTION: Colo. Rev. Stat. §§ 10-2-101 to 10-2-804 (1995/2008).
RELATED STATE ACTIVITY: Colo. Rev. Stat. §§ 10-2-201 to 10-2-221 (1977/1986); Colo. Code Regs. 3 §§ 1-2-4 to 1-2-5 (1995/2009); § 1-2-10 (1995/2010); § 1-2-17 (2009); Notice 05-E-4 (2005); BULLETIN 4-2006; BULLETIN 5-2006.

NAIC MEMBER: Connecticut
MODEL ADOPTION: Conn. Gen. Stat. §§ 38a-702a to 38a-702r (2002/2004).
RELATED STATE ACTIVITY: Conn. Gen. Stat. §§ 38a-703 to 38a-718 (1949/2002/2005)

NAIC MEMBER: Delaware
MODEL ADOPTION: Del. Code Ann. tit. 18, §§ 1701 to 1723 (2002).
RELATED STATE ACTIVITY:

NAIC MEMBER: District of Columbia
MODEL ADOPTION: D.C. Code §§ 31-1131.01 to 31-1131.19 (2002/2005).
RELATED STATE ACTIVITY: D.C. Mun. Regs. tit. 26, §§ 100 to 199 (2003/2009).

NAIC MEMBER: Florida
MODEL ADOPTION: Fla. Stat. §§ 626.011 to 626.711 (1959/2010).
RELATED STATE ACTIVITY: Fla. Admin. Code Ann. r. 69B-228.010 to 69B-228-250 (1993/2009); Memorandum 2006-014 (2006).

NAIC MEMBER: Georgia
MODEL ADOPTION:
RELATED STATE ACTIVITY: Ga. Code Ann. §§ 33-23-1 to 33-23-46 (1992/2009); Ga. Comp. R. & Regs. 120-2-3-.01 to 120-2-3-.47 (1965/2009).

NAIC MEMBER: Guam
MODEL ADOPTION:
RELATED STATE ACTIVITY: Guam Gov't. Code §§ 43250 to 43258 (1981).

NAIC MEMBER: Hawaii
MODEL ADOPTION: Haw. Rev. Stat. §§ 431-9A-101 to 431-9A-130 (2002/2010).
RELATED STATE ACTIVITY: Haw. Code R. §§ 16-171-301 to 16-171-311 (2005/2010); BULLETIN 2010-1 (2010); Memorandum 2010-1 (2010).

NAIC MEMBER: Idaho
MODEL ADOPTION: Idaho Code Ann. §§ 41-1001 to 41-1029 (2001/2005).
RELATED STATE ACTIVITY:

NAIC MEMBER: Illinois
MODEL ADOPTION: 215 Ill. Comp. Stat. 5/500-5 to 5/500-150 (2002/2009).
RELATED STATE ACTIVITY: Ill. Admin. Code tit. 50, §§ 3119.10 to 3119.75 (1985/2010); BULLETIN 2009-4 (2009); BULLETIN 2009-7 (2009); BULLETIN 2010-1 (2010); Memorandum 7-12-2010 (2010).

NAIC MEMBER: Indiana
MODEL ADOPTION: Ind. Code §§ 27-1-15.6-1 to 27-1-15.6-33 (2002/2004).
RELATED STATE ACTIVITY: BULLETIN 150 (2007); BULLETIN 151 (2007).

NAIC MEMBER: Iowa
MODEL ADOPTION: Iowa Code §§ 522B.1 to 522B.18 (2002).
RELATED STATE ACTIVITY: Iowa Code § 508E.3 (2000/2009); Iowa Admin. Code r. 191-10.1 to 191-10.25 (1963/2009); § 191-11.2 (2009); § 191-12 (2009); BULLETIN 2009-6 (2009).

NAIC MEMBER: Kansas
MODEL ADOPTION: Kan. Stat. Ann. §§ 40-4901 to40-4918 (2001).
RELATED STATE ACTIVITY: Kan. Admin. Regs. §§ 81-3-1 to 81-3-7 (2006).

NAIC MEMBER: Kentucky
MODEL ADOPTION: Ky. Rev. Stat. Ann. §§ 304.9-010 to 304.9-460 (1970/2010).
RELATED STATE ACTIVITY: 806 Ky. Admin. Regs. 9:220 (1995/2009); 9:070 (1984/2009); Advisory Opinion 2006-07 (2006); Advisory Opinion 2006-04 (2006); Advisory Opinion 2010-2 (2010).

NAIC MEMBER: Louisiana
MODEL ADOPTION: La. Rev. Stat. Ann. § 22:1135 (2008); 22:1541 to 22:1573 (2008/2010).
RELATED STATE ACTIVITY: BULLETIN 7-18-2006.

NAIC MEMBER: Maine
MODEL ADOPTION: Me. Rev. Stat. Ann. tit. 24-A, §§ 1420 to 1420-P (2001).
RELATED STATE ACTIVITY: Me. Rev. Stat. Ann. tit. 24-A, §§ 1401 to 1485 (1997/2010).

NAIC MEMBER: Maryland
MODEL ADOPTION:
RELATED STATE ACTIVITY: Md. Code Ann., Ins. §§ 10-101 to 10-132 (2008/2010); BULLETIN 2010-15 (2010).

NAIC MEMBER: Massachusetts
MODEL ADOPTION: Mass. Gen. Laws ch. 175, §§ 162 to 162X (2003).
RELATED STATE ACTIVITY: Mass. Gen. Laws ch. 175, §§ 162 to 177 (1969/2002); BULLETIN 2005-09 (2005); BULLETIN 2006-9-INS. (2006)

NAIC MEMBER: Michigan
MODEL ADOPTION: Mich. Comp. Laws §§ 500.1201 to 500.1204b (1980/2006); §§ 500.1204d to 500.1247 (1972/2009).
RELATED STATE ACTIVITY: BULLETIN 2006-09 (2006); Memorandum 5-21-2009 (2009); Memorandum 6-2-2009 (2009); Memorandum 11-3-2009 (2009); BULLETIN 2009-15-INS.

NAIC MEMBER: Minnesota
MODEL ADOPTION: Minn. Stat. §§ 60K.30 to 60K.56 (2002/2010).
RELATED STATE ACTIVITY:

NAIC MEMBER: Mississippi
MODEL ADOPTION: Miss. Code Ann. §§ 83-17-51 to 83-17-89 (2002).
RELATED STATE ACTIVITY: 2009 Miss. Legis. Serv. 143; BULLETIN 2009-2 (2009).

NAIC MEMBER: Missouri
MODEL ADOPTION:
RELATED STATE ACTIVITY: Mo. Rev. Stat. §§ 375.012 to 375.146 (1939/2009); § 375.017 (2000) (reciprocity provisions); Mo. Code Regs. Ann. tit. 20, §§ 700-1.005 to 700-1.150 (1974/2008); § 700-3.200 (2009).

NAIC MEMBER: Montana
MODEL ADOPTION:
RELATED STATE ACTIVITY: Mont. Code Ann. §§ 33-17-101 to 33-17-1203 (1959/2009); Mont. Admin. R. 6.6.2801 to 6.6.2810 (1990/2009).

NAIC MEMBER: Nebraska
MODEL ADOPTION: Neb. Rev. Stat. §§ 44-4047 to 44-4066 (2001/2009).
RELATED STATE ACTIVITY: 210 Neb. Admin. Code §§ 38-001 to 38-018 (2009); Notice 10-3-2006; BULLETIN CB-82 (2010).

NAIC MEMBER: Nevada
MODEL ADOPTION: Nev. Rev. Stat. §§ 683A.020 to 683A.490 (1971/2005).
RELATED STATE ACTIVITY: Nev. Admin. Code §§ 686A.320 to 686A.370 (2005); LCB File No. R009-05 (2005); Notice 5-1-2010 (2010).

NAIC MEMBER: New Hampshire
MODEL ADOPTION: N.H. Rev. Stat. Ann. §§ 402-J:1 to 402-J:19 (2001/2005).
RELATED STATE ACTIVITY: BULLETIN 06-043-AB (Oct. 2006); BULLETIN 07-077-AB (Oct. 2007).

NAIC MEMBER: New Jersey
MODEL ADOPTION: N.J. Stat. Ann. §§ 17:22A-26 to 17:22A-48 (2001).
RELATED STATE ACTIVITY: N.J. Admin. Code §§ 11:17-1.1 to 11:17-5.7 (2009); § 11:17B-3.1; § 11:17B-4.10 (2009); BULLETIN NO. 04-20 (2004).

NAIC MEMBER: New Mexico
MODEL ADOPTION:
RELATED STATE ACTIVITY: N.M. Stat. Ann. §§ 59A-11-1 to 59A-12-2 (1985/2003); BULLETIN 2006-02 (2006).

NAIC MEMBER: New York
MODEL ADOPTION:
RELATED STATE ACTIVITY: N.Y. Ins. Law §§ 2101 to 2129 (1984/2009).

NAIC MEMBER: North Carolina
MODEL ADOPTION: N.C. Gen. Stat. §§ 58-33-1 to 58-33-125 (1988/2009).
RELATED STATE ACTIVITY: BULLETIN 2007-B-7.

NAIC MEMBER: North Dakota
MODEL ADOPTION: N.D. Cent. Code §§ 26.1-26-01 to 26.1-26-50 (1985/2009).
RELATED STATE ACTIVITY: N.D. Admin. Code §§ 45-02-02-01 to 45-02-02-15 (1983/2010).

NAIC MEMBER: Northern Marianas
MODEL ADOPTION:
RELATED STATE ACTIVITY: 4 N. Mar. I. Code § 7303 (1984); 11-55 N. Mar. I. Admin. Code § 2.

NAIC MEMBER: Ohio
MODEL ADOPTION: Ohio Rev. Code Ann. §§ 3905.01 to 3905.99 (1953/2010).
RELATED STATE ACTIVITY: BULLETIN 3-22-2010 (2010).

NAIC MEMBER: Oklahoma
MODEL ADOPTION: Okla. Stat. tit. 36, §§ 1435.1 to 1435.39 (1980/2009).
RELATED STATE ACTIVITY: Okla. Admin. Code § 365:1-9-15.1 (1998/2005); § 365:25-3.1 (1989/2009); §

365:25-3-19 (2008/2009); § 365:25-5-41; §§ 365:25-17-1 to 365:25-17-9; §§ 365:25-19-1 to 365:25-19-9 (2006); BULLETIN 10-1-2007; BULLETIN 6-1-2009 (2009).

NAIC MEMBER: Oregon
MODEL ADOPTION: Or. Rev. Stat. §§ 744.052 to 744.089 (2003/2009).
RELATED STATE ACTIVITY: Or. Admin. R. 836-071-0108 to 836-071-0351 (2000/2010).

NAIC MEMBER: Pennsylvania
MODEL ADOPTION: 40 Pa. Stat. Ann. §§ 25-1201 to 25-1299.1(2002).
RELATED STATE ACTIVITY: Notice 6-21-2008 (2008).

NAIC MEMBER: Puerto Rico
MODEL ADOPTION:
RELATED STATE ACTIVITY: P.R. Laws Ann. tit. 26, §§ 901 to 948 (1974/1986).

NAIC MEMBER: Rhode Island
MODEL ADOPTION: R.I. Gen. Laws §§ 27-2.4-1 to 27-2.4-22 (2002/2008).
RELATED STATE ACTIVITY: R.I. Ins. Reg. 103 (2004/2009); R.I. Ins. Reg. 40 (2007/2010); BULLETIN 2006-6 (2006); BULLETIN 2007-8 92007).

NAIC MEMBER: South Carolina
MODEL ADOPTION: S.C. Code Ann. §§ 38-43-10 to 38-43-260 (1988/2009).
RELATED STATE ACTIVITY: S.C. Code Ann. Regs. 69-23 (1984/2010); BULLETIN 16-2009 (2009); BULLETIN 17-2009 (2009).

NAIC MEMBER: South Dakota
MODEL ADOPTION: S.D. Codified Laws §§ 58-30-1 to 58-30-195 (1966/2010).
RELATED STATE ACTIVITY: S.D. Admin. R. 20:06:18:01 to 20:06:18:22 (1985/2010); Memorandum 7-25-2006.

NAIC MEMBER: Tennessee
MODEL ADOPTION: Tenn. Code Ann. §§ 56-6-101 to 56-6-126 (2003/2008).
RELATED STATE ACTIVITY: Tenn. Code Ann. §§ 997 (2006); Tenn. Comp. R. & Regs. 0780-1-5-.01 to 0780-1-5-.12; BULLETIN 8-14-2006 (2006); Op. Att'y Gen. 09-91 (2009).

NAIC MEMBER: Texas
MODEL ADOPTION:
RELATED STATE ACTIVITY: Tex. Ins. Code Ann. §§ 4001.001 to 4001.010 (2005/2009); § 4002.008 (2009); §§ 4004.151 to 4004.155 (2009); § 4005.004; § 4005.054 (2005); §§ 4008.001 to 4008.008 (2009); 28 Tex. Admin. Code §§ 19.1001 to 1030 (1994/2010); BULLETIN B-0041-07 (2007).

NAIC MEMBER: Utah
MODEL ADOPTION:
RELATED STATE ACTIVITY: Utah Code Ann. §§ 31A-23a-101 to 31A-23a-505 (1986/2009); Utah Admin. Code r. 590-244 (2009); 590-88 (2010); BULLETIN 2010-3 (2010).

NAIC MEMBER: Vermont
MODEL ADOPTION: Vt. Stat. Ann. tit. 8, § 4791 to 4813n (1974/2002).
RELATED STATE ACTIVITY:

NAIC MEMBER: Virgin Islands
MODEL ADOPTION:
RELATED STATE ACTIVITY: V.I. Code Ann. tit. 22, §§ 751 to 794 (1968).

NAIC MEMBER: Virginia
MODEL ADOPTION:
RELATED STATE ACTIVITY: Va. Code Ann. §§ 38.2-1800 to 38.2-1845 (1986/2010).

NAIC MEMBER: Washington
MODEL ADOPTION:
RELATED STATE ACTIVITY: Wash. Rev. Code Ann. §§ 48.17.010 to 48.17.600 (1947/2010); Wash. Admin. Code §§ 284-17-001 to 284-17-256 (2008/2009).

NAIC MEMBER: West Virginia
MODEL ADOPTION: W. Va. Code §§ 33-12-1 to 33-12-36 (1957/2004).
RELATED STATE ACTIVITY: V. Va. Code R. §§ 114-2-1 to 114-2-7 (2008/2009); W. Va. Code R. §§ 114-42-2 to 114-42-8 (1996/2009).

NAIC MEMBER: Wisconsin
MODEL ADOPTION:
RELATED STATE ACTIVITY: Wis. Stat. §§ 628.01 to 628.12 (1975/1998); §§ 628.51 to 628.81 (1975/1981); Wis. Admin. Code Ins. §§ 6.50 to 6.75 (1981/2009); BULLETIN dated 2/4/05; BULLETIN dated 9/27/06.

NAIC MEMBER: Wyoming
MODEL ADOPTION: Wyo. Stat. Ann. §§ 26-9-201 to 26-9-218 (2001/2007).
RELATED STATE ACTIVITY:

Exhibit 7 – Advertisements of Life Insurance & Annuities Model Regulation

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (N.A.I.C.)
MODEL LAWS, REGULATIONS AND GUIDELINES
N.A.I.C. MODEL LAWS, REGULATIONS AND GUIDELINES
VOLUME IV
LIFE INSURANCE
ADVERTISEMENTS OF LIFE INSURANCE AND ANNUITIES MODEL REGULATION
NAIC 570-1

Table of Contents

Section 1. Purpose

The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

Section 2. Definitions

For the purpose of this regulation:

A. (1) "Advertisement" means material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy including:

Comment: See drafting note caveat immediately following the definition of "insurance producer" in this section.

(a) Printed and published material, audiovisual material and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, telemarketing scripts, billboards and similar displays, and the Internet or any other mass communication media.

(b) Descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed or used by the insurer or insurance producer; including but not limited to circulars, leaflets, booklets, web pages, depictions, illustrations and form letters;

(c) Material used for the recruitment, training and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;

(d) Prepared sales talks, presentations and materials for use by insurance producers.

(2) "Advertisement" for the purpose of this regulation shall not include:

(a) Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

(b) Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy; and

(c) A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

B. "Determinable policy elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable policy elements only, or from both determinable and guaranteed policy elements.

C. "Guaranteed policy elements" means the premiums, benefits, values, credits or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue.

D "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

Drafting Note: Each jurisdiction may wish to revise the definition of "insurance producer" to reference the definition in that jurisdiction's licensing law. This definition from the NAIC Producer Licensing Model Act, which also defines the terms "sell," "solicit," and "negotiate," should be used. This term and words related thereto should not be included in life advertising regulations unless "insurance producer" also is statutorily defined and the definitions are identical.

E. "Insurer" means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, fraternal benefit society, and any other legal entity which is defined as an "insurer" in the insurance code of this state or issues life insurance or annuities in this state and is engaged in the advertisement of a policy.

F. "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

G. "Policy" means any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

H. "Preneed funeral contract or prearrangement" means an arrangement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

Section 3. Applicability

A. This regulation shall apply to any life insurance or annuity advertisement intended for dissemination in this state. In variable contracts where disclosure requirements are established pursuant to federal regulation, this regulation shall be interpreted so as to eliminate conflict with federal regulation.

B. All advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement. Insurers shall establish and at

all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. A system of control shall include regular and routine notification, at least once a year, to agents, brokers and others authorized by the insurer to disseminate advertisements of the requirement and procedures for company approval prior to the use of any advertisements that is not furnished by the insurer and that clearly sets forth within the notice the most serious consequence of not obtaining the required prior approval.

Section 4. Form and Content of Advertisements

A. Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

B. No advertisement shall use the terms “investment,” “investment plan,” “founder’s plan,” “charter plan,” “deposit,” “expansion plan,” “profit,” “profits,” “profit sharing,” “interest plan,” “savings,” “savings plan,” “private pension plan,” “retirement plan” or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

Section 5. Disclosure Requirements

A. The information required to be disclosed by this regulation shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

B. An advertisement shall not omit material information or use words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied or that the policy or contract includes a “free look” period that satisfies or exceeds regulatory requirements, does not remedy misleading statements.

C. In the event an advertisement uses “non medical,” “no medical examination required,” or similar terms where issue is not guaranteed, terms shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

D. An advertisement shall not use as the name or title of a life insurance policy any phrase that does not include the words “life insurance” unless accompanied by other language clearly indicating it is life insurance. An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word “annuity” unless accompanied by other language clearly indicating it is an annuity. An annuity advertisement shall not refer to an annuity as a CD annuity, or deceptively compare an annuity to a certificate of deposit.

E. An advertisement shall prominently describe the type of policy advertised.

F. An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no insurance producer or commission involved there will be a cost saving to prospective purchasers unless that is the fact. No cost savings may be stated or implied without justification satisfactory to the commissioner prior to use.

G. An advertisement for a life insurance policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, that fact shall be commonly disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

H. An advertisement for the types of policies described in Subsections F and G of this section shall not use the words “inexpensive,” “low cost,” or other phrase or words of similar import when the policies being marketed are guaranteed issue.

I. Premiums

(1) An advertisement for a policy with non level premiums shall prominently describe the premium changes.

(2) An advertisement in which the insurer describes a policy where it reserves the right to change the amount of the premium during the policy term, but which does not prominently describe this feature, is deemed to be deceptive and misleading and is prohibited.

(3) An advertisement shall not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. Reference may be made to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

(4) An advertisement that represents that a pure endowment benefit has a "profit" or "return" on the premium paid, rather than a policy benefit for which a specified premium is paid is deemed to be deceptive and misleading and is prohibited.

(5) An advertisement shall not represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.

(6) An advertisement shall not use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan using nonguaranteed elements to pay a portion of future premiums.

J. Analogies between a life insurance policy or annuity contract's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments shall be complete and accurate. An advertisement shall not emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than life insurance.

K. An advertisement shall not state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable or in any manner an incorrect or improper practice.

L. If nonforfeiture values are shown in any advertisement, the values must be shown either for the entire amount of the basic life policy death benefit or for each $1,000 of initial death benefit.

M. The words "free," "no cost," "without cost," "no additional cost, "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor shall be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

N. No insurance producer may use terms such as "financial planner," "investment adviser," "financial consultant," or "financial counseling" in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

O. Nonguaranteed Elements

(1) An advertisement shall not utilize or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead.

(2) An advertisement shall not state or imply that the payment or amount of nonguaranteed elements is guaranteed. Unless otherwise specified in [insert reference to the state law or regulation based on the NAIC Life Insurance Illustrations Model Regulation], if nonguaranteed elements are illustrated, they shall be based on the insurer's current scale and the illustration shall contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

Drafting Note: A state that has not adopted the Life Insurance Illustrations Model Regulation should delete the phrase referencing it.

(3) Unless otherwise specified in [insert reference to state equivalent to the NAIC Life Insurance Illustrations Model Regulation], an advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth, with equal prominence comparable illustrations or statements containing

or based upon the guaranteed policy elements.

Drafting Note: A state that has not adopted the Life Insurance Illustrations Model Regulation should delete the phrase referencing it.

(4) An advertisement shall not use or describe determinable policy elements in a manner that is misleading or has the capacity or tendency to mislead.

(5) Advertisement may describe determinable policy elements as guaranteed but not determinable at issue. This description should include an explanation of how these elements operate, and their limitations, if any.

Drafting Note: Paragraphs (4) and (5) above contain references currently only applicable to equity indexed annuity products but could apply beyond such products. Additional requirements with respect to these products can be found in the Annuity Disclosure Model Regulation.

(6) If an advertisement refers to any nonguaranteed policy element, it shall indicate that the insurer reserves the right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way; such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right.

(7) An advertisement shall not refer to dividends as "tax free" or use words of similar import, unless the tax treatment of dividends is fully explained and the nature of the dividend as a return of premium is indicated clearly.

(8) An advertisement may not state or imply that illustrated dividends under either or both a participating policy or pure endowment will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions required for that to occur.

P. An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

Q. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties

(1) Testimonials, appraisals or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the testimonial, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis; the insurer or insurance producer makes as its own all the statements contained therein, and these statements are subject to all the provisions of this regulation.

(2) If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the insurer or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(3) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(4) When an endorsement refers to benefits received under a policy for a specific claim, the claim date, including claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of five (5) years after the discontinuance of its use or publication.

R. An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any statistics used in advertisement shall be identified.

S. Policies Sold to Students

(1) The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless such is a correct and truthful statement.

(2) All advertisements including, but not limited to, informational flyers used in the solicitation of insurance shall be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities

shall be clearly identified as such.

(3) The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with a university, college, school or other educational or training institution, unless true.

T. Introductory, Initial or Special Offers and Enrollment Periods

(1) An advertisement of an individual policy or combination of policies shall not state or imply that the policy or combination of policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(2) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

(3) An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol that refers the reader to that specific portion of the advertisement that contains the full rate schedule for the policy being advertised.

Drafting Note: Some states prohibit a reduced initial premium. This section does not imply that a state that prohibits an initial premium is not in conformity with the NAIC model.

(4) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than [insert number] months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days from the date on which the enrollment period is advertised for the first time. This regulation applies to all advertising media—i.e., mail, newspapers, radio, television, magazines and periodicals—by any one insurer or insurance producer. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control. This regulation does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his or her request. It is also inapplicable to solicitations of employees or members of a particular group or association that otherwise would be eligible under specified provisions of the insurance code for group, blanket or franchise insurance. In cases where insurance product is marketed on a direct mail basis to prospective insurance by reason of some common relationship with a sponsoring organization, this regulation shall be applied separately to each sponsoring organization.

U. An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group, or quasi group and as such enjoy special rates, dividends or underwriting privileges, unless that is the fact.

V. An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement shall not disparage other insurers, insurance producers, policies, services or methods of marketing.

W. For individual deferred annuity products or deposit funds, the following shall apply:

(1) Any illustrations or statements containing or based upon nonguaranteed interest rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. The nonguaranteed interest rate shall not be greater than those currently being credited by the company unless the nonguaranteed rates have been publicly declared by the company with an effective date for new issues not more than three (3) months subsequent to the date of declaration.

(2) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and the net premiums.

(3) If the contract does not provide a cash surrender benefit prior to commencement of payment of annuity benefits, an illustration or statement concerning the contract shall prominently state that cash surrender benefits

are not provided.

(4) Any illustrations, depictions or statements containing or based on determinable policy elements shall likewise set forth with equal prominence comparable illustrations, depictions or statements containing or based on guaranteed policy elements.

X. An advertisement of a life insurance policy or annuity that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life insurance policies and annuity contracts.

Y. An advertisement for the solicitation or sale of a preneed funeral contract or prearrangement as defined in Section 2F that is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

(1) The fact that a life insurance policy or annuity contract is being used to fund a prearrangement as defined in Section 2F; and

(2) The nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise services, the administrator and any other person.

Section 6. Identity of Insurer

A. The name of the insurer shall be clearly identified in all advertisements about the insurer or its products, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. However, if an advertisement contains a listing of rates or features that is a composite of several different policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the issuing insurers, insurance issuer ratings need not be stated.

B. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, a reinsurer of the insurer, service mark, slogan, symbol or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

C. An advertisement shall not use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with a governmental program or agency.

Section 7. Jurisdictional Licensing and Status of Insurer

A. An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

B. An advertisement may state that an insurer or insurance producer is licensed in a particular state or states, provided it does not exaggerate that fact or suggest or imply that competing insurers or insurance producers may not be so licensed.

C. An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

Section 8. Statements About the Insurer

An advertisement shall not contain statements, pictures or illustrations that are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation including, but

not limited to, the placement of insurer's rating in the hierarchy of the rating system cited.

Section 9. Enforcement Procedures

A. Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to inspection by the department. All advertisements shall be maintained in the file for a period of five (5) years after discontinuance of its use or publication.

B. If the commissioner determines that an advertisement has the capacity or tendency to mislead or deceive the public, the commissioner may require an insurer or insurance producer to submit all or any part of the advertising material for review or approval prior to use.

C. Each insurer subject to the provisions of this regulation shall file with the commissioner with its annual statement a certificate of compliance executed by an authorized officer of the insurer stating that to the best of his or her knowledge, information and belief the advertisements that were disseminated by or on behalf of the insurer in this state during the preceding statement year, or during the portion of the year when these rules were in effect, complied or were made to comply in all respects with the provisions of these rules and the insurance laws of this state as implemented and interpreted by this regulation.

Drafting Note: In furtherance of efficient and effective use of scarce regulatory resources, the drafters recommend that any state requirements for review and pre-approval of life insurance and annuity advertisements be carefully examined and reconsidered. In particular it seems appropriate that generic or branding advertisements that are designed to create public interest in life insurance or annuities or in an insurer be exempt from such requirements.

Section 10. Penalties

An insurer or its officer, directors, producers or employees that violate any of the provisions of this regulation, or knowingly participate in or abet such violation, shall be subject to a fine up to $1000 for each violation and suspension or revocation of its certificate of authority or license.

Section 11. Conflict With Other Laws or Regulations

It is not intended that this regulation conflict with or supersede any regulations currently in force or subsequently adopted in this state governing specific aspects of the sale or replacement of life insurance including, but not limited to, laws or regulations dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, replacement of life insurance policies, illustration of life insurance policies, and annuity disclosure. Consequently, no disclosure pursuant to or required under those regulations shall be deemed to be an advertisement within the meaning of this regulation.

Section 12. Severability

If any section, term or provision of this regulation shall be judged invalid for any reason, that judgment shall not affect, impair or invalidate any other section, term or provision of this regulation, and the remaining sections, terms and provisions shall be and remain in full force and effect.

CREDIT(S)

Legislative History (all references are to the Proceedings of the NAIC).

1975 Proc. II 6, 9, 244, 325, 326-330 (adopted).

1976 Proc. II 15, 17, 342, 366, 373-374 (amended).

1988 Proc. I 9, 18, 88-91, 130-131, 138-144 (amended and reprinted).

1988 Proc. II 5, 12, 478, 490, 497-503 (amended).

2000 Proc. 1st Quarter 9, 26-27, 58, 110-117, 135 (amended and reprinted).

Exhibit 8 – State Adoption Table – Advertisements (Life & Annuities)

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (N.A.I.C.)
MODEL LAWS, REGULATIONS AND GUIDELINES
N.A.I.C. MODEL LAWS, REGULATIONS AND GUIDELINES
VOLUME IV
LIFE INSURANCE
ADVERTISEMENTS OF LIFE INSURANCE AND ANNUITIES MODEL REGULATION
NAIC 570-13

State Adoption Table

KEY:
MODEL ADOPTION: States that have citations identified in this column adopted the NAIC model in a uniform and substantially similar manner. This requires states to adopt the model in its entirety but does allow for minor variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: States that have citations identified in this column have **not** adopted the NAIC model in a uniform and substantially similar manner. Examples of Related State Activity include: An older version of the NAIC model, legislation or regulation derived from other sources and Bulletins and Administrative Rulings.

NO ACTION TO DATE: No state activity on the topic as of the date of the most recent update.

NAIC MEMBER:
MODEL ADOPTION:
RELATED STATE ACTIVITY:

NAIC MEMBER: Alabama
MODEL ADOPTION: Ala. Admin. Code r. 482-1-132 (1981/2004).
RELATED STATE ACTIVITY:

NAIC MEMBER: Alaska
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: American Samoa
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Arizona
MODEL ADOPTION: Ariz. Admin. Code § 20-6-202 (1969/2007).
RELATED STATE ACTIVITY:

NAIC MEMBER: Arkansas
MODEL ADOPTION:
RELATED STATE ACTIVITY: 17 Ark. Code R. §§ 1; 7 to 9 (1974).

NAIC MEMBER: California

MODEL ADOPTION: Cal. Admin. Code §§ 2547 to 2547.11 (1975).
RELATED STATE ACTIVITY:

NAIC MEMBER: Colorado
MODEL ADOPTION: Colo. Code Regs. § 4-1-2 (1974/2007).
RELATED STATE ACTIVITY:

NAIC MEMBER: Connecticut
MODEL ADOPTION: Conn. Agencies Regs. §§ 38a.819-21 to 38a.819-31 (1976/1987).
RELATED STATE ACTIVITY:

NAIC MEMBER: Delaware
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: District of Columbia
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Florida
MODEL ADOPTION: Fla. Admin. Code Ann. r. 69O-150.101 to 69O-150.122 (1973/1996).
RELATED STATE ACTIVITY:

NAIC MEMBER: Georgia
MODEL ADOPTION: Ga. Comp. R. & Regs. 120-2-11 (1980) (Some extra provisions).
RELATED STATE ACTIVITY:

NAIC MEMBER: Guam
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Hawaii
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Idaho
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Illinois
MODEL ADOPTION: Ill. Admin. Code tit. 50, §§ 909.10 to 909.112 (1976/2007).
RELATED STATE ACTIVITY:

NAIC MEMBER: Indiana
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Iowa
MODEL ADOPTION:
RELATED STATE ACTIVITY: Iowa Admin. Code r. § 191-15.1 to 191-15.14 (1997/2003) (Parts of health advertising reg. included in broader provisions applicable to insurers).

NAIC MEMBER: Kansas

MODEL ADOPTION: Kan. Admin. Regs. §§ 40-9-118 (1977/1998) (1988 model adopted by reference with exceptions).
RELATED STATE ACTIVITY:

NAIC MEMBER: Kentucky
MODEL ADOPTION:
RELATED STATE ACTIVITY: 806 Ky. Admin. Regs. 12:010 to 12:020 (1975).

NAIC MEMBER: Louisiana
MODEL ADOPTION: La. Admin. Code §§ 37:XIII.4101to 37:XIII.4123 (Regulation 60) (1997/2007).
RELATED STATE ACTIVITY:

NAIC MEMBER: Maine
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Maryland
MODEL ADOPTION:
RELATED STATE ACTIVITY: Md. Code Regs. §§ 31.15.01.01 to 31.15.01.10 (1970).

NAIC MEMBER: Massachusetts
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Michigan
MODEL ADOPTION: Mich. Admin. Code r. 500.1371 to 500.1387 (1984).
RELATED STATE ACTIVITY:

NAIC MEMBER: Minnesota
MODEL ADOPTION:
RELATED STATE ACTIVITY: Minn. R. 2790.0100 to 2790.2200 (1971/1989).

NAIC MEMBER: Mississippi
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Missouri
MODEL ADOPTION: Mo. Code Regs. Ann. tit. 20, § 400-5.100 (1976/2003).
RELATED STATE ACTIVITY: Mo. Code Regs. Ann. tit. 20, § 400-5.410 (2007).

NAIC MEMBER: Montana
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Nebraska
MODEL ADOPTION: 210 Neb. Rev. Stat. § 50-004 (1990/2008).
RELATED STATE ACTIVITY:

NAIC MEMBER: Nevada
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: New Hampshire

MODEL ADOPTION: N.H. Code Admin. R. Ann. Ins. 2602.01 to 2602.11 (2008).
RELATED STATE ACTIVITY:

NAIC MEMBER: New Jersey
MODEL ADOPTION: N.J. Admin. Code §§ 11:2-23.1 to 11:2-23.10 (1985/2001).
RELATED STATE ACTIVITY:

NAIC MEMBER: New Mexico
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: New York
MODEL ADOPTION: N.Y. Admin. Law §§ 219.1 to 219.7 (Regulation 34-A) (1980/2006).
RELATED STATE ACTIVITY:

NAIC MEMBER: North Carolina
MODEL ADOPTION: 11 N.C. Admin. Code §§ 0424 to 0433 (1978/1992).
RELATED STATE ACTIVITY:

NAIC MEMBER: North Dakota
MODEL ADOPTION: N.D. Admin. Code §§ 45-04-10-01 to 45-04-10-08 (1988/2006).
RELATED STATE ACTIVITY:

NAIC MEMBER: Northern Marianas
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Ohio
MODEL ADOPTION:
RELATED STATE ACTIVITY: Ohio Admin. Code 3901-6-01 (1997).

NAIC MEMBER: Oklahoma
MODEL ADOPTION: Okla. Admin. Code §§ 365:10-3-30 to 365:10-3-39 (1990/1993).
RELATED STATE ACTIVITY:

NAIC MEMBER: Oregon
MODEL ADOPTION:
RELATED STATE ACTIVITY: BULLETIN 2009-3 (2009); BULLETIN 2009-6 (2009).

NAIC MEMBER: Pennsylvania
MODEL ADOPTION:
RELATED STATE ACTIVITY: 31 Pa. Code §§ 51.1 to 51.43 (1973/1976) (Similar to accident and health insurance advertising model at 40-1).

NAIC MEMBER: Puerto Rico
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Rhode Island
MODEL ADOPTION: 02-030-052 R.I. Code R. (2009).
RELATED STATE ACTIVITY:

NAIC MEMBER: South Carolina

MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: South Dakota
MODEL ADOPTION:
RELATED STATE ACTIVITY: S.D. Admin. R. 20:06:10 (1973/2006) (Regulation based on model at page 40-1).

NAIC MEMBER: Tennessee
MODEL ADOPTION: Tenn. Comp. R. & Regs. 0780-1-33-.01 to 0780-1-33-.13 (1976).
RELATED STATE ACTIVITY:

NAIC MEMBER: Texas
MODEL ADOPTION:
RELATED STATE ACTIVITY: 21 Tex. Admin. Code §§ 101 to 112; 114 (1981/2007).

NAIC MEMBER: Utah
MODEL ADOPTION:
RELATED STATE ACTIVITY: Utah Admin. Code r. 590-130 (1989/1990) (Based on accident and health insurance advertising model at 40-1).

NAIC MEMBER: Vermont
MODEL ADOPTION:
RELATED STATE ACTIVITY: Vt. Code R. § 77-2 (1978/1980).

NAIC MEMBER: Virgin Islands
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Virginia
MODEL ADOPTION: 14 Va. Admin. Code §§ 5-40-10 to 5-40-80 (1982) (More comprehensive than model).
RELATED STATE ACTIVITY:

NAIC MEMBER: Washington
MODEL ADOPTION: Wash. Admin. Code 284-23-010 to 284-23-550 (1975/1989).
RELATED STATE ACTIVITY:

NAIC MEMBER: West Virginia
MODEL ADOPTION: W. Va. Code R. §§ 114-11-1 to 114-11-11 (2008).
RELATED STATE ACTIVITY:

NAIC MEMBER: Wisconsin
MODEL ADOPTION:
RELATED STATE ACTIVITY: Wis. Admin. Code Ins. § 2.16 (1984/1998).

NAIC MEMBER: Wyoming
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

This state page does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the laws cited should be consulted. The NAIC attempts to provide current information; however, due to the timing of our publication production, the information provided may not reflect the most up to date status. Therefore, readers should consult state law for additional adoptions and subsequent bill status.

Exhibit 9 – Advertisements of Accident and Sickness Insurance Model Regulation

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (N.A.I.C.)
MODEL LAWS, REGULATIONS AND GUIDELINES
N.A.I.C. MODEL LAWS, REGULATIONS AND GUIDELINES
VOLUME I
ACCIDENT AND HEALTH INSURANCE CONSUMER PROTECTION
ADVERTISEMENTS OF ACCIDENT AND SICKNESS INSURANCE MODEL REGULATION
NAIC 40-1

Table of Contents

Section 1. Purpose

The purpose of the Advertisements of Accident and Sickness Insurance Model Regulation is to establish minimum criteria to assure proper and accurate description and to protect prospective purchasers with respect to the advertisement of accident and sickness insurance in the same manner as the regulation governing advertisements of Medicare supplement insurance. This regulation assures the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as accident and sickness insurance by the establishment of standards of conduct in the advertising of accident and sickness insurance in a manner that prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by insurance agents and companies.

Section 2. Applicability

A. This regulation shall apply to individual and group accident and sickness insurance (except Medicare supplement insurance or any other insurance that is covered by a separate state statute) "advertisement," as that term is defined in Section 3B, G, H and I unless otherwise specified in this regulation, which the insurer knows or reasonably should know is intended for presentation, distribution or dissemination in this state when the presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer, agent, broker, producer or solicitor, as those terms are defined in the Insurance Code of this state.

Drafting Note: This regulation applies to group and blanket as well as individual accident and sickness insurance. Certain distinctions, however, are applicable to these categories. Among these distinctions is the insureds' level of familiarity with insurance and insurance terminology, a factor that is covered in Section 5C.

B. Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All of the insurer's advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are advertised.

C. Advertising materials that are reproduced in quantity shall be identified by form numbers or other identifying means. The identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.

Section 3. Definitions

A. (1) "Accident and sickness insurance policy" means a policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement that provides accident or sickness benefits or medical, surgical or hospital benefits, whether on an indemnity, reimbursement, service or prepaid basis, except when issued in connection with another kind of insurance other than life and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts. An accident and sickness insurance policy does not include a Medicare supplement insurance policy, or any other type of accident and sickness insurance with advertising guidelines covered by a separate statute.

(2) The language "except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts" means it does not include disability, waiver of premium and double indemnity benefits included in life insurance, endowment or annuity contracts or contracts supplemental to the above contracts that contain only provisions that:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident; or

(b) Operate to safeguard the contracts against lapse or to give a special surrender value, special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled as defined by the contract or supplemental contract.

B. (1) "Advertisement" means:

(a) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other Internet displays or communications, other forms of electronic communications, billboards and similar displays;

(b) Descriptive literature and sales aids of all kinds issued by an insurer, agent, producer, broker or solicitor for presentation to members of the insurance-buying public, such as circulars, leaflets, booklets, depictions, illustrations, form letters and lead-generating devices of all kinds; and

(c) Prepared sales talks, presentations and material for use by agents, brokers, producers and solicitors whether prepared by the insurer or the agent, broker, producer or solicitor.

(2) The definition of "advertisement" includes advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.

(3) The definition of advertisement extends to the use of all media for communications to the general public, to the use of all media for communications to specific members of the general public, and to the use of all media for communications by agents, brokers, producers and solicitors.

(4) The definition of advertisement does not include:

(a) Material used solely for the training and education of an insurer's employees, agents or brokers;

(b) Material used in-house by insurers;

(c) Communications within an insurer's own organization not intended for dissemination to the public;

(d) Individual communications of a personal nature with current policyholders other than material urging the policyholders to increase or expand coverages;

(e) Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;

(f) Court-approved material ordered by a court to be disseminated to policyholders; or

(g) A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided that the announcement clearly indicates that it is preliminary to the issuance of a booklet and that the announcement does not describe the specific benefits under the contract or program nor describe advantages as to the purchase of the contract or program. This does not prohibit a general endorsement of the program by the sponsor.

C. "Certificate" meansa statement of the coverage and provisions of a policy of group accident and sickness insurance, which has been delivered or issued for delivery in this state and includes riders, endorsements and enrollment forms, if attached.

D. "Exception" means any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

E. "Insurer" means an individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health maintenance organization, hospital service corporation, medical service corporation, prepaid health plan and any other legal entity that is defined as an insurer in the insurance code of this state, and is engaged in the advertisement of itself or an accident and sickness insurance policy.

F. "Institutional advertisement" means an advertisement having as its sole purpose the promotion of the reader's, viewer's or listener's interest in the concept of accident and sickness insurance, or the promotion of the insurer as a seller of accident and sickness insurance.

G. "Invitation to contract" means an advertisement that is neither an invitation to inquire nor an institutional advertisement.

H. "Invitation to inquire" means:

(1) An advertisement having as its objective the creation of a desire to inquire further about accident and sickness insurance and that is limited to a brief description of the loss for which benefits are payable but may contain:

(a) The dollar amount of benefits payable; and

(b) The period of time during which benefits are payable.

(2) An invitation to inquire may not refer to cost.

(3) An invitation to inquire shall contain a provision in the following or substantially similar form:

"This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable]."

I. "Lead-generating device" means any communication directed to the publicthat, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this State for the purchase of accident and sickness insurance.

J. “Limitation” means a provision that restricts coverage under the policy other than an exception or a reduction.

K. “Limited benefit health coverage” shall have the same meaning as defined in [insert reference to state law equivalent to Section 7L of the NAIC Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Act].

L. Person” means a natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.

M: “Prominently” or “conspicuously” means that the information to be disclosed prominently or conspicuously will be presented in a manner that is noticeably set apart from other information or images in the advertisement.

N. “Reduction” means a provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than would be otherwise payable and the reduction has not been used.

Section 4. Method of Disclosure of Required Information

All information, exceptions, limitations, reductions and other restrictions required to be disclosed by this regulation shall be set out conspicuously and in close conjunction to the statements to which the information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading. This regulation permits, but is not limited to, the use of either of the following methods of disclosure:

A. Disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of policy benefits; or

B. Disclosure not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure or otherwise made to appear unimportant. The phrase “under appropriate captions” means that the title must be accurately descriptive of the captioned material. Appropriate captions include the following: “Exceptions,” “Exclusions,” “Conditions Not Covered,” and “Exceptions and Reductions.” The use of captions such as the following are prohibited because they do not provide adequate notice of the significance of the material: “Extent of Coverage,” “Only these Exclusions,” or “Minimum Limitations.”

Drafting Note: In considering whether an advertisement complies with the disclosure requirements of this regulation, the regulation must be applied in conjunction with the form and content standards contained in Section 5.

Section 5. Form and Content of Advertisements

A. The format and content of an advertisement of an accident or sickness insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Format means the arrangement of the text and the captions.

B. Distinctly different advertisements are required for publication in different media, such as newspapers or magazines of general circulation as compared to scholarly, technical or business journals and newspapers. Where an advertisement consists of more than one piece of material, each piece of material must, independent of all other pieces of material, conform to the disclosure requirements of this regulation.

C. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create within the segment of the public to which it is directed.

Drafting Note: These subsections must be applied in conjunction with Sections 1 and 4. These subsections refer specifically to format and content of the advertisement and the overall impression created by the advertisement. This involves factors such as the size, color and prominence of type used to describe benefits.

D. Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, shall not be used.

Drafting Note: This subsection prohibits the use of incomplete statements and words or phrases that have the tendency or capacity to mislead or deceive because of the reader’s unfamiliarity with insurance terminology. Therefore, words, phrases and illustrations used in an advertisement must be clear and unambiguous and, if the

advertisement uses insurance terminology, sufficient description of a word, phrase or illustration shall be provided by definition or description in the context of the advertisement. As stated in Subsection C, distinctly different levels of comprehension of the subscribers of various publications may be anticipated.

E. An insurer shall clearly identify its accident and sickness insurance policy as an insurance policy. A policy trade name shall be followed by the words "insurance policy" or similar words clearly identifying the fact that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.

F. An insurer, agent, broker, producer, solicitor or other person shall not solicit a resident of this state for the purchase of accident and sickness insurance in connection with or as the result of the use of advertisement by the person or any other persons, where the advertisement:

(1) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of the person or the true purpose of the advertisement; or

(2) Otherwise violates the provisions of this regulation.

G. An insurer, agent, broker, producer, solicitor or other person shall not solicit residents of this State for the purchase of accident and sickness insurance through the use of a true or fictitious name that is deceptive or misleading with regard to the status, character or proprietary or representative capacity of the person or the true purpose of the advertisement.

Section 6. Advertisements of Benefits Payable, Losses Covered or Premiums Payable

A. Covered Benefits.

(1) The use of deceptive words, phrases or illustrations in advertisements of accident and sickness insurance is prohibited.

Drafting Note: This broad provision may be deleted if your state has enacted an Unfair Trade Practices Act that contains the same prohibitions.

(2) An advertisement that fails to state clearly the type of insurance coverage being offered is prohibited.

(3) An advertisement shall not omit information or use words, phrases, statements, references or illustrations if the omission of information or use of words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(4) An advertisement shall not contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "the policy will help to replace your income," (when used to express loss of time benefits), or similar words and phrases, in a manner that exaggerates a benefit beyond the terms of the policy.

Drafting Note: An advertisement shall not state or imply by word, phrase or illustration that the benefits being offered will supplement any other insurance policy, health benefit plan, or governmental plan if that is not the fact.

(5) An advertisement of a hospital or other similar facility confinement benefit that makes reference to the benefit being paid directly to the policyholder is prohibited unless, in making the reference, the advertisement includes a statement that the benefits may be paid directly to the hospital or other health care facility if an assignment of benefits is made by the policyholder. An advertisement of medical and surgical expense benefits shall comply with this regulation in regard to the disclosure of assignments of benefits to providers of services. Phrases such as "you collect," "you get paid," "pays you," or other words or phrases of similar import may be used so long as the advertisement indicates that it is payable to the insured or someone designated by the insured.

(6) (a) An advertisement for basic hospital expense coverage, basic medical-surgical expense coverage, basic hospital/medical-surgical expense coverage, hospital confinement indemnity coverage, accident only coverage, specified disease coverage, specified accident coverage or limited benefit health coverage or for coverage that covers only a certain type of loss is prohibited if:(i) The advertisement refers to a total benefit maximum limit payable under the policy in any headline, lead-in or caption without also in the same

headline, lead-in or caption specifying the applicable daily limits and other internal limits;(ii) The advertisement states a total benefit limit without stating the periodic benefit payment, if any, and the length of time the periodic benefit would be payable to reach the total benefit limit; or(iii) The advertisement prominently displays a total benefit limit that would not, as a general rule, be payable under an average claim.

(b) This paragraph does not apply to individual major medical expense coverage, individual basic medical expense coverage, or disability income insurance.

(7) Advertisements that emphasize total amounts payable under hospital, medical or surgical accident and sickness insurance coverage or other benefits in a policy, such as benefits for private duty nursing, are prohibited unless the actual amounts payable per day for the indemnity or benefits are stated.

(8) Advertisements that include examples of benefits payable under a policy shall not use examples in a way that implies that the maximum payable benefit payable under the policy will be paid, when less than maximum benefits are paid in an average claim.

(9) When a range of benefit levels is set forth in an advertisement, it shall be clear that the insured will receive only the benefit level written or printed in the policy selected and issued. Language that implies that the insured may select the benefit level at the time of filing claims is prohibited.

(10) Language in an advertisement that implies that the amount of benefits payable under a loss-of-time policy may be increased at the time of claim or disability according to the needs of the insured is prohibited.

(11) Advertisements for policies with premiums that are modest because of their limited coverage or limited amount of benefits shall not describe premiums as “low,” “low cost,” “budget” or use qualifying words of similar import. The use of words such as “only” and “just” in conjunction with statements of premium amounts when used to imply a bargain are prohibited.

(12) Advertisements that state or imply that premiums will not be changed in the future are prohibited unless the advertised policies expressly provide that the premiums will not be changed in the future.

(13) An advertisement for a policy that does not require the premium to accompany the application shall not overemphasize that fact and shall clearly indicate under what circumstances coverage will become effective.

(14) An advertisement that exaggerates the effects of statutorily mandated benefits or required policy provisions or that implies that the provisions are unique to the advertised policy is prohibited.

Drafting Note: For example, the phrase, “money back guarantee” is an exaggerated description of the free look right to examine the policy and is prohibited.

(15) An advertisement that implies that a common type of policy or a combination of common benefits is “new,” “unique,” “a bonus,” “a breakthrough,” or is otherwise unusual is prohibited. The addition of a novel method of premium payment to an otherwise common plan of insurance does not render it new.

(16) Language in an advertisement that states or implies that each member under a family contract is covered as to the maximum benefits advertised, where that is not the fact, is prohibited.

(17) An advertisement that contains statements such as “anyone can apply,” or “anyone can join,” other than with respect to a guaranteed issue policy for which administrative procedures exist to assure that the policy is issued within a reasonable period of time after the application is received by the insurer, is prohibited.

(18) An advertisement that states or implies immediate coverage of a policy is prohibited unless administrative procedures exist so that the policy is issued within fifteen (15) working days after the insurer receives the completed application.

(19) An advertisement that contains statements such as “here is all you do to apply,” or “simply” or “merely” to refer to the act of applying for a policy that is not a guaranteed issue policy is prohibited unless it refers to the fact that the application is subject to acceptance or approval by the insurer.

(20) An advertisement of accident and sickness insurance sold by direct response shall not state or imply that because no insurance agent will call and no commissions will be paid to agents that it is a low cost plan, or use other similar words or phrases because the cost of advertising and servicing the policies is a substantial cost in the marketing by direct response.

(21) Applications, request forms for additional information and similar related materials are prohibited if they resemble paper currency, bonds, stock certificates, etc., or use any name, service mark, slogan, symbol or device in a manner that implies that the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.

Drafting Note: Illustrations that depict paper currency or checks showing an amount payable are deceptive and

misleading.

(22) An advertisement that implies in any manner that the prospective insured may realize a profit from obtaining hospital, medical or surgical insurance coverage is prohibited.

(23) An advertisement that uses words such as "extra," "special" or "added" to describe a benefit in the policy is prohibited. No advertisement of a benefit for which payment is conditioned upon confinement in a hospital or similar facility shall use words or phrases such as "tax-free," "extra cash," "extra income," "extra pay," or substantially similar words or phrases because these words and phrases have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized.

Drafting Note: Although the regulation prohibits the use of the phrase "tax free," it does not prohibit the use of complete and accurate terminology explaining the Internal Revenue Service (IRS) regulations applicable to the taxation of accident and sickness benefits. The IRS regulations provide that the premiums paid for and the benefits received from hospital indemnity policies are subject to the same regulations as loss of time premiums and benefits and are not afforded the same favorable tax treatment as premiums for expense incurred hospital, medical and surgical benefit coverages. (Rev. Rul. 68-451 and Rev. Rul. 69-154.) Prominence either by caption, lead-in, boldface or large type shall not be given in any manner to statements relating to the tax status of the benefits.

Paragraphs 21 to 23 reflect the prohibition of advertising language that creates the impression of a profit or gain to be realized by the insured when enrolling in certain kinds of coverage. For example, a hospital indemnity advertisement shall not include language such as "pay for a trip to Florida," "buy a new television," or otherwise imply that the insured will make a profit on hospitalization.

(24) An advertisement of a hospital or other similar facility confinement benefit shall not advertise that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro rata basis relating to the number of days of confinement unless the statements of the monthly or weekly benefit amounts are in juxtaposition with equally prominent statements of the benefit payable on a daily basis. The term "juxtaposition" means side by side or immediately above or below. When the policy contains a limit on the number of days of coverage provided, the limit shall appear in the advertisement.

(25) An advertisement of a policy covering only one disease or a list of specified diseases shall not imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

(26) An advertisement that is an invitation to contract for a specified disease policy that provides lesser benefit amounts for a particular subtype of disease, shall clearly disclose the subtype and its benefits. This provision shall not apply to institutional advertisements.

(27) An advertisement of a specified disease policy providing expense benefits shall not use the term "actual" when the policy only pays up to a limited amount for expenses. Instead, the term "charges" or substantially similar language should be used that does not create the misleading impression that there is full coverage for expenses.

(28) An advertisement that describes any benefits that vary by age shall disclose that fact.

(29) An advertisement that uses a phrase such as "no age limit," if benefits or premiums vary by age or if age is an underwriting factor, shall disclose that fact.

Drafting Note: This section recognizes that certain words and phrases in advertising may have a tendency to mislead the public as to the extent of benefits under an advertised policy. Consequently, the terms (and those specified in the regulation do not represent a comprehensive list but are only examples) must be used with caution to avoid a tendency to exaggerate benefits and must not be used unless the statement is literally true in every instance. The use of the following phrases based on the terms or having the same effect must be similarly restricted: "pays hospital, surgical, etc., bills," "pays dollars to offset the cost of medical care," "safeguards your standard of living," "pays full coverage," "pays complete coverage," "pays for financial needs," "provides for replacement of your lost paycheck," "replaces income" or "emergency paycheck." Other phrases may or may not be acceptable depending upon the nature of the coverage being advertised. For example, the phrase "this policy will help to replace your income" is acceptable in advertising for loss-of-time coverage but is prohibited in advertising for hospital confinement (including "hospital indemnity") coverage. In any advertisement the phrase "no lifetime maximum" may not be repeated under each policy benefit or otherwise overemphasized. However, this does not preclude the use of the general statement in an advertisement that describes the manner in which any lifetime maximum is

applied under the coverage.

(30) A television, radio, mail or newspaper advertisement or lead-generating device that is designed to produce leads either by use of a coupon, a request to write or to call the company or a subsequent advertisement prior to contact shall include information disclosing that an agent may contact the applicant.

(31) Advertisements, applications, requests for additional information and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had his or her eligibility for the insurance individually determined in advance when the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.

(32) An advertisement, including invitations to inquire or invitations to contract, shall not employ devices that are designed to create undue fear or anxiety in the minds of those to whom they are directed. Examples of prohibited devices are:

(a) The use of phrases such as "cancer kills somebody every two minutes" and "total number of accidents" without reference to the total population from which the statistics are drawn;

Drafting Note: As an example of a permissible device, data prepared by the American Cancer Society are acceptable provided their source is noted and they are not overemphasized.

(b) The exaggeration of the importance of diseases rarely or seldom found in the class of persons to whom the policy is offered;

(c) The use of phrases such as "the finest kind of treatment," implying that the treatment would be unavailable without insurance;

(d) The reproduction of newspaper articles, magazine articles, information from the Internet or other similar published material containing irrelevant facts and figures;

(e) The use of images that unduly emphasize automobile accidents, disabled persons or persons confined in beds who are in obvious distress, persons receiving hospital or medical bills or persons being evicted from their homes due to their medical bills;

(f) The use of phrases such as "financial disaster," "financial distress," "financial shock," or another phrase implying that financial ruin is likely without insurance is only permissible in an advertisement for major medical expense coverage, individual basic medical expense coverage or disability income coverage, and only if the phrase does not dominate the advertisement;

(g) The use of phrases or devices that unduly excite fear of dependence upon relatives or charity; and

(h) The use of phrases or devices that imply that long sicknesses or hospital stays are common among the elderly.

Drafting Note: This regulation prohibits words or phrases that exaggerate the effect of benefit payments on the insured's general well-being, such as "worry-free savings plan," "guaranteed savings," "financial peace of mind," and "you will never have to worry about hospital bills again."

B. Exceptions, Reductions and Limitations

(1) An advertisement shall not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after two years." Words and phrases used in an advertisement to describe the policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of the limitations, exceptions and reductions of the policy offered.

(2) An advertisement that is an invitation to contract shall disclose those exceptions, reductions and limitations affecting the basic provisions of the policy.

(3) When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or at a time period between the date a loss occurs and the date benefits begin to accrue for the loss, an advertisement that is subject to the requirements of the preceding paragraph shall prominently disclose the existence of the periods.

Drafting Note: This paragraph imposes the same disclosure standards as Paragraph (1) with respect to policy provisions providing for waiting, elimination, probationary or similar time periods between the effective date of the policy and the effective date of coverage under the policy or at a time period between the date a loss occurs and the date benefits begin to accrue for the loss. Where a policy has waiting, elimination, probationary or other limiting time periods, the provisions must be stated in negative terms.

(4) An advertisement shall not use the words "only," "just," "merely," "minimum," "necessary" or similar

words or phrases to describe the applicability of any exceptions, reductions, limitations or exclusions such as: "This policy is subject to the following minimum exceptions and reductions."

Drafting Note: The regulation requires a fair and accurate description of exceptions, limitations and reductions in a manner that does not minimize, render obscure or otherwise make them appear unimportant. Advertisements must state exceptions, limitations and reductions in the negative and must not understate any exception, limitation or reduction or qualify any exception, limitation or reduction to emphasize coverage described elsewhere (e.g., "Does not pay for [insert exception, limitation or reduction], however, Medicare pays this" is prohibited, nor is "Does not pay for the first four days in hospital for sickness, but pays for accident from first day."

(5) An advertisement that is an invitation to contract that fails to disclose the amount of any deductible or the percentage of any coinsurance factor is prohibited.

(6) An advertisement for loss-of-time coverage that is an invitation to contract that sets forth a range of amounts of benefit levels is prohibited unless it also states that eligibility for the benefits is based upon condition of health, income or other economic conditions, or other underwriting standards of the insurer if that is the fact.

(7) An advertisement that refers to "hospitalization for injury or sickness" omitting the word "covered" when the policy excludes certain sicknesses or injuries, or that refers to "whenever you are hospitalized," "when you go to the hospital" or "while you are confined in the hospital" omitting the phrase "for covered injury or sickness," if the policy excludes certain injuries or sickness, is prohibited. Continued reference to "covered injury or sickness" is not necessary where this fact has been prominently disclosed in the advertisement and where the description of sicknesses or injuries not covered is prominently set forth.

(8) An advertisement that fails to disclose that the definition of "hospital" does not include certain facilities that provide institutional care such as a nursing home, convalescent home or extended care facility, when the facilities are excluded under the definition of hospital in the policy, is prohibited.

(9) The term "confining sickness" shall be explained in an advertisement containing the term. The explanation might be as follows: "Benefits are payable for total disability due to confining sickness only so long as the insured is necessarily confined indoors." Captions such as "Lifetime Sickness Benefits" or "Five-Year Sickness Benefits" are incomplete if the benefits are subject to confinement requirements. When sickness benefits are subject to confinement requirements, captions such as "Lifetime House Confining Sickness Benefits" or "Five-Year House Confining Sickness Benefits" would be permissible.

Drafting Note: The term "confining sickness" is an abbreviated expression and requires explanation so as not to be misleading.

(10) An advertisement that fails to disclose any waiting or elimination periods for specific benefits is prohibited.

(11) An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, or other policies providing benefits that are limited in nature, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to or substantially similar to the following: "THIS IS A LIMITED POLICY," "THIS POLICY PROVIDES LIMITED BENEFITS," "THIS IS A CANCER ONLY POLICY," or "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY."

Drafting Note: An advertisement that is an invitation to contract must recite the exceptions, reductions, and limitations as required by this regulation and in a manner consistent with Section 4. If an exception, reduction or limitation is important enough to use in a policy, it is of sufficient importance that its existence in the policy should be referred to in the advertisement regardless of whether it may also be the subject matter of a provision of the Uniform Individual Accident and Sickness Provision Law. Some advertisements disclose exceptions, reductions and limitations as required, but the advertisement is so lengthy as to obscure the disclosure. Where the length of an advertisement has this effect, special emphasis must be given by changing the format to show the restrictions in a manner that does not minimize, render obscure or otherwise make them appear unimportant.

C. Preexisting Conditions

(1) An advertisement that is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" without an appropriate definition or description shall not be used.

Drafting Note: This regulation requires in negative terms a description of the effect of a preexisting condition exclusion because this exclusion is a restriction on coverage. The use of the phrase "preexisting condition" without an appropriate definition or description of the term is prohibited, as well as stating a reduction in the statutory time limit (such as a reduction from three years to two years or to one year) as an affirmative benefit. The words "appropriate definition or description" mean that the term "preexisting condition" must be defined as the company's claims department uses it.

Negative features must be accurately set forth. Any limitation on benefits including preexisting conditions also must be restated under a caption concerning exclusions or limitations, notwithstanding that the preexisting condition exclusion has been disclosed elsewhere in the advertisement.

(2) When an accident and sickness insurance policy does not cover losses resulting from preexisting conditions, an advertisement of the policy shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claimunder the policy. This regulation prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement if it is an invitation to contract shall disclose that a medical examination is required.

Drafting Note: The phrase "no health questions" or words of similar import shall not be used if the policy excludes preexisting conditions. Use of a phrase such as "guaranteed issue" or "automatic issue," if the policy excludes preexisting conditions for a certain period, must be accompanied by a statement disclosing that fact in a manner that does not minimize, render obscure, or otherwise make it appear unimportant and is otherwise consistent with Section 4.

(3) When an advertisement contains an application form to be completed by the applicant and returned by mail, the application form shall contain a question or statement that reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, the application form shall contain a question or statement substantially as follows:

"Do you understand that this policy will not pay benefits during the first [insert number] [years, months] after the issue date for a disease or physical condition that you now have or have had in the past? YES"

Or substantially the following statement: "I understand that the policy applied for will not pay benefits for any loss incurred during the first [insert number] [years, months] after the issue date on account of disease or physical condition that I now have or have had in the past."

Drafting Note: Some states require approval of the application even when the application is not attached to the policy when issued. This regulation does not change the requirement. The text of this regulation should be modified to reflect the applicable regulation in the state.

Section 7. Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination

A. An advertisement that is an invitation to contract shall disclose the provisions relating to renewability, cancellability and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that shall not minimize or render obscure the qualifying conditions.

B. Advertisements of cancellable accident and sickness insurance policies shall state that the contract is cancellable or renewable at the option of the company, as the case may be, in language substantially similar to the following: A policy that is renewable at the option of the insurance company shall be advertised in a manner similar to, "This policy is renewable at the option of the company," or "The company has the right to refuse renewal of this policy," or "Renewable at the option of the insurer," or "This policy can be cancelled by the company at any time."

C. Advertisements of insurance policies that are guaranteed renewable, cancelable or renewable at the option of the company shall disclose that the insurer has the right to increase premium rates if the policy so provides.

D. Qualifying conditions that constitute limitations on the permanent nature of the coverage shall be disclosed in advertisements of insurance policies that are guaranteed renewable, cancelable or renewable at the option of the company. Examples of qualifying conditions are (1) age limits, (2) reservation of a right to increase premiums, and (3) the establishment of aggregate limits.

(1) Provisions for reduction of benefits at stated ages shall be set forth. For example, a policy may contain a

provision that reduces benefits fifty percent (50%) after age sixty (60) although it is renewable to age sixty-five (65). Such a reduction shall be set forth. Also, a provision for the elimination of certain hazards at any specific ages or after the policy has been in force for a specified time shall be set forth.

(2) An advertisement for a policy that provides for step-rated premium rates based upon the policy year or the insured's attained age shall disclose the rate increases and the times or ages at which the premiums increase.

Drafting Note: This regulation imposes the same disclosure standards with respect to policy provisions relating to renewability, cancellability and termination, modification of benefits, losses or premiums because of age or otherwise as stated in Section 6. This regulation requires that the qualifying conditions of renewability must be disclosed in a manner that does not minimize or render obscure the qualifying conditions of renewal. For example, "non-cancellable and guaranteed renewable" does not fulfill the requirement of the regulation if the policy contains a terminal age of sixty-five. In such a case, a proper statement would be "non-cancellable and guaranteed renewable to age sixty-five." If a guaranteed renewable policy reserves the right to increase premiums, the statement must be expanded into language similar to "guaranteed renewable to age sixty-five but the company reserves the right to increase premium rates on a class basis." If the contract contains an aggregate limit after which no further benefits are payable, the above statement must be amplified with the phrase "subject to a maximum aggregate amount of $50,000" or similar language. A policy may have one or more of the three basic limitations and an advertisement must describe each of those that the policy contains. Over fifty percent of new individual policy issues are guaranteed renewable; therefore, the fact that a policy is guaranteed renewable shall not be exaggerated.

With respect to noncancellable policies and guaranteed renewable policies, the regulation requires that a summary of the policy provisions with respect to renewability be set forth and defined where appropriate. The disclosure of provisions relating to renewability requires the use of language such as "noncancellable," "noncancellable and guaranteed renewable," or "guaranteed renewable." Unless otherwise modified by law or regulation in an individual state, the use of those terms and the definitions provided shall be consistent with the definitions of those terms adopted by the National Association of Insurance Commissioners (See 1960 *Proceedings of the NAIC* I 153).

Section 8. Standards for Marketing

A. An insurer, directly or through its agents or brokers, shall:

(1) Establish marketing procedures to assure that any comparison of policies by its agents or brokers will be fair and accurate;

(2) Establish marketing procedures assuring excessive insurance is not sold or issued, except this requirement does not apply to group major medical expense coverage and disability income coverage; and

(3) Establish auditable procedures for verifying compliance with this subsection.

B. In addition to the practices prohibited in [insert reference to state law equivalent to the NAIC Unfair Trade Practices Act], the following acts and practices are prohibited:

(1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of insurance policies or insurers for the purpose of inducing, or tending to induce, a person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy, or to take out a policy of insurance with another insurer;

(2) High Pressure Tactics. Employing a method of marketing that has the effect of inducing the purchase of insurance, or tends to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance; and

(3) Cold Lead Advertising. Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

Section 9. Testimonials or Endorsements by Third Parties

A. Testimonials and endorsements used in advertisements shall be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial or endorsement, makes as its own all of the statements contained in it, and the advertisement, including the statement, is subject to all the provisions of this regulation. When a testimonial or endorsement is used more than one year after it was originally given, a confirmation must be obtained.

Drafting Note: The regulation must be applied in conjunction with Section 10 and requires that all the statements must be genuine and not fictitious. Under the regulation, the manufacturing, substantive editing or "doctoring" of a testimonial is clearly prohibited as being false and misleading to the insurance-buying public. However, language that would be prohibited under this regulation must be edited out of a testimonial.

B. A person shall be deemed a "spokesperson" if the person making the testimonial or endorsement:

(1) Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise;

(2) Has been formed by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer;

(3) Has any person in a policy-making position who is affiliated with the insurer in any of the above described capacities; or

(4) Is in any way directly or indirectly compensated for making a testimonial or endorsement.

Drafting Note: Reimbursement for substantial travel and entertainment expenses is also required to be disclosed; however, union scale wages required by union regulations are not required to be disclosed. Travel away from the home of the person giving the testimonial or endorsement to a distant location involving transportation expenses, lodging expenses or expenses for meals constitutes payment and must be reflected as a paid endorsement.

C. The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. In the case of television or radio advertising, the required disclosure shall be accomplished in the introductory portion of the advertisement and shall be given prominence.

Drafting Note: This regulation requires both that approval or endorsement of a policy by an individual, group of individuals, society, association, or other organization be factual and that any proprietary relationship between the sponsoring or endorsing organization and the insurer be disclosed. For example, if the dividend under an association group case is payable to the association, disclosure of that fact is required. Also, if the insurer or an officer of the insurer formed or controls the association, that fact must be disclosed.

D. The disclosure requirements of this regulation shall not apply where the sole financial interest or compensation of a spokesperson, for all testimonials or endorsements made on behalf of the insurer, consists of the payment of union scale wages required by union rules, and if the payment is actually the scale for TV or radio performances.

E. An advertisement shall not state or imply that an insurer or an accident and sickness insurance policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, unless that is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, the fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policy-making position in the association, that fact must be disclosed.

F. When a testimonial refers to benefits received under an accident and sickness insurance policy, the specific claim data, including claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of four (4) years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials that do not correctly reflect the present practices of the insurer or that are not applicable to the policy or benefit being advertised is not permissible.

Section 10. Use of Statistics

A. An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to an insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the current and relevant facts. The advertisement shall not imply that the statistics are

derived from the policy advertised unless that is the fact, and when applicable to other policies or plans shall specifically so state.

(1) An advertisement shall specifically identify the accident and sickness insurance policy to which statistics relate and where statistics are given that are applicable to a different policy, it shall be stated clearly that the data do not relate to the policy being advertised.

(2) An advertisement using statistics that describe an insurer, such as assets, corporate structure, financial standing, age, product lines or relative position in the insurance business, may be irrelevant and, if used at all, shall be used with extreme caution because of the potential for misleading the public. As a specific example, an advertisement for accident and sickness insurance that refers to the amount of life insurance which the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of insurance.

Drafting Note: This regulation prohibits the use of statistics in a manner that is misleading and deceptive. This regulation requires the disclosure of all relevant facts and prohibits the use of irrelevant facts. Irrelevant facts include statistics that are out-of-date and no longer current. An advertisement that states the dollar amount of claims paid must also indicate the period over which the claims have been paid. If the term "loss ratio" is used, it shall be properly explained in the context of the advertisement and, unless the state has issued a regulation otherwise defining the term, it shall be calculated on the basis of premiums earned to losses incurred and shall not be on a yearly run-off basis.

B. An advertisement shall not represent or imply that claim settlements by the insurer are "liberal" or "generous," or use words of similar import, or that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

C. The source of any statistics used in an advertisement shall be identified in the advertisement.

Drafting Note: The regulation does not require that state-only statistics be used since statistics such as hospital charges and average stays may vary from state to state. When nationwide statistics are used the fact should be noted, unless the statistics on the particular point are substantially the same in a state to which the advertisement is directed. Statistics may be used only if they are credible. Statistics that are applicable to a broader array of illnesses or accidents than those covered under the policy cannot be used.

Section 11. Identification of Plan or Number of Policies

A. An advertisement that uses the word "plan" without prominently identifying it as an accident and sickness insurance policy is prohibited.

B. When a choice of the amount of benefits is referred to, an advertisement that is an invitation to contract shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.

C. When an advertisement that is an invitation to contract refers to various benefits that may be contained in two (2) or more policies, other than group master policies, the advertisement shall disclose that the benefits are provided only though a combination of policies.

Section 12. Disparaging Comparisons and Statements

An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

A. An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits."

B. Advertisements that state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are prohibited unless the exceptions, reductions or limitations are contained in a substantial majority of the competing coverages.

C. Advertisements that state or imply that an insurer's premiums are lower or that its loss ratios are higher because its organizational structure differs from that of competing insurers are prohibited.

Drafting Note: The regulation prohibits disparaging, unfair or incomplete comparisons of policies or benefits that would have a tendency to deceive or mislead the public. The regulation does not preclude the use of comparisons by health maintenance organizations, prepaid health plans and other direct service organizations that describe the difference between their prepaid health benefits coverage and indemnity insurance coverage.

Section 13. Jurisdictional Licensing and Status of Insurer

A. An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

Drafting Note: This regulation prohibits advertisements that imply that an insurer is licensed beyond the limits of those jurisdictions where it is actually licensed. An advertisement that contains testimonials from persons who reside in a state in which the insurer is not licensed or that refers to claims of persons residing in states in which the insurer is not licensed implies licensing in those states and therefore is in violation of this regulation unless the advertisement states that the insurer is not licensed in those states.

B. An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any division or agency of this state or the federal government. Terms such as "official" or words of similar import, used to describe any policy or application form are prohibited because of the potential for deceiving or misleading the public.

Drafting Note: Although the regulation permits a reference to an insurer being licensed in a state where the advertisement appears, it does not allow exaggeration of the fact of the licensing nor does it permit the suggestion that competing insurers may not be so licensed because, in most states, an insurer must be licensed in the state to which it directs its advertising.

C. An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of the state or federal government. Approval of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial condition.

Section 14. Identity of Insurer

A. The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement that is an invitation to contract. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device that without disclosing the name of the actual insurer, would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

Drafting Note: The regulation recognizes the existence of holding companies. The requirement that the advertisement refer to the policy form number is applicable only to advertisements of individual and franchise policies that are invitations to contract.

B. An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to combination of words, symbols or physical materials used by agencies of the federal government or of this state, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

C. Advertisements, envelopes or stationery that employ words, letters, initials, symbols or other devices that are similar to those used in governmental agencies or by other insurers are not permitted if they may lead the public to believe:

(1) That the advertised coverages are somehow provided by or are endorsed by the governmental agencies or the other insurers;

(2) That the advertiser is the same as is connected with or is endorsed by the governmental agencies or the

other insurers.

D. An advertisement shall not use the name of a state or political subdivision of a state in a policy name or description.

E. An advertisement in the form of envelopes or stationery of any kind may not use any name, service mark, slogan, symbol or any device in a manner that implies that the insurer or the policy advertised, or that any agent who may call upon the consumer in response to the advertisement, is connected with a governmental agency, such as the Social Security Administration.

F. An advertisement may not incorporate the word "Medicare" in the title of the plan or policy being advertised unless, wherever it appears, the word is qualified by language differentiating it from Medicare. The advertisement, however, shall not use the phrase "[] Medicare Department of the [] Insurance Company," or language of similar import.

G. An advertisement may not imply that the reader may lose a right or privilege or benefit under federal, state or local law if he or she fails to respond to the advertisement.

H. The use of letters, initials or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letters, initials or symbols of the corporate name or trademark.

I. The use of the name of an agency or "[] Underwriters" or "[] Plan" in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.

J. The use of an address so as to mislead or deceive as to true identity of the insurer, its location or licensing status is prohibited.

K. An insurer shall not use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective purchaser.

L. Advertisements used by agents, producers, brokers or solicitors of an insurer shall have prior written approval of the insurer before they may be used.

M. An agent who makes contact with a consumer, as a result of acquiring that consumer's name from a lead-generating device, shall disclose that fact in the initial contact with the consumer. An agent or insurer may not use names produced from lead-generating devices that do not comply with the requirements of this regulation.

Section 15. Group or Quasi-Group Implications

A. An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as members, enjoy special rates or underwriting privileges, unless that is the fact.

B. This regulation prohibits the solicitations of a particular class, such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

C. Advertisements that indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population or that a particular segment of the population is an acceptable risk, when the distinctions are not maintained in the issuance of policies, are prohibited.

D. An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct applications required need not be on separate documents or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, it is prohibited to use terms such as "enroll" or "join" to imply group or blanket insurance coverage when that is not the fact.

E. Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

Drafting Note: The regulation prohibits the use of representations to any segment of the population that a particular policy or coverage is available only to that or similar segments of the population as preferred risks when

actually the policy or coverage is available to members of the public at large at the same rates. For example, the regulation prohibits an advertisement labeled "Now for Readers of X Magazine."

Section 16. Introductory, Initial or Special Offers

A. (1) An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not contain phrases describing an enrollment period as "special," "limited," or similar words or phrases when the insurer uses the enrollment periods as the usual method of marketing accident and sickness insurance.

(2) An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than [insert number] months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days from the date that the enrollment period is advertised for the first time. This regulation applies to all advertising media, i.e., mail, newspapers, the Internet, radio, television, magazines and periodicals, by any one insurer. It is inapplicable to solicitations of employees or members of a particular group or association that otherwise would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.

Drafting Note: The regulation restricts the repetitive use of enrollment periods. The requirement of reasonable closing dates and waiting periods between enrollment periods was adopted to eliminate abuses that formerly existed. The regulation does not limit just the use of enrollment periods. It requires that a particular insurance product offered in an enrollment period through any advertising media, including the prepared presentations of agents, cannot be offered again in the entire state until a specified number of months from the close of the enrollment period have expired. Thus, an insurer must choose whether to use enrollment periods or open enrollment for a product. (See Paragraph (4) for a definition of "a particular insurance product."). The regulation does not prohibit multiple advertising during an enrollment period through any and all media published or transmitted within this state as long as the enrollment periods for all the advertisements have the same expiration date.

The regulation does not prohibit the solicitation of members of a group or association for the same product even though there has not been a lapse of a specified number of months since the close of a preceding enrollment period that was open to the general public for the same product. The regulation does not require separation by a specified number of months of enrollment periods for the same insurance product in this state if the advertising material is directed by an admitted insurer to persons by direct solicitation on the basis that a common relationship exists with an entity, such as a bank and its depositors, a department store to its charge account customers or an oil company to its credit card holders, and more than one of the organizations is sponsoring the insurance product at different times if providing the insurance under this method is not otherwise prohibited by law. However, the [insert number] month regulation does apply to one specific sponsor to the same person in this state on the basis of his or her status as a customer of that one specific entity only.

The number of months was left open in this regulation because several states permit six months; several states allow three months, and other states prohibit certain periods of enrollment. Whether the enrollment periods should be permissible and the period of time between enrollments are items on which each state should make its decision on an individual basis and each state should modify the time limit in this regulation to comply with state law.

(3) This regulation prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless that is the fact.

(4) The phrase "a particular insurance product" in Paragraph (2) of this subsection means an insurance policy that provides substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall

not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

Drafting Note: This regulation defines the meaning of "a particular insurance product" and prohibits advertising of products having minor variations, such as different elimination periods or different amounts of daily hospital indemnity benefits, in a succession of enrollment periods.

B. An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears.

Drafting Note: Some states prohibit a reduced initial premium. Section 16B does not imply that the states that prohibit an initial premium are not in conformity with the model regulation. This is an item to be decided on a state-by-state basis.

C. Special awards, such as a "safe drivers' award," shall not be used in connection with advertisements of accident and sickness insurance.

Section 17. Statements about an Insurer

An advertisement shall not contain statements that are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendations.

Drafting Note: This is closely related to the requirements of Section 10 concerning the use of statistics. The regulation prohibits insurers that have been organized for only a brief period of time advertising that they are "old" and also prohibits the use of images of a "home office" building in a manner that is misleading with respect to the actual size and magnitude of the insurer. Also, the occupations of the persons comprising the insurer's board of directors or the public's familiarity with their names or reputations are irrelevant and must not be emphasized. The preponderance of a particular occupation or profession among the board of directors of an insurer does not justify the advertisement of a plan of insurance offered to the general public as insurance designed or recommended by members of that occupation or profession. For example, it is prohibited for an insurance company to advertise a policy offered to the general public as "the physician's policy" or "the doctor's plan" simply because there is a preponderance of physicians on the board of directors of the insurer. The regulation prohibits the use of a recommendation of a commercial rating system unless the purpose, meaning and limitations of the recommendation are clearly indicated.

Section 18. Enforcement Procedures

A. Advertising File. Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state, whether or not licensed in an other state, with a notation attached to each advertisement that indicates the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to regular and periodical inspection by the commissioner. All of these advertisements shall be maintained in a file for a period of either four (4) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

B. Certificate of Compliance. Each insurer required to file an annual statement shall file with the commissioner, with its annual statement, a certificate of compliance executed by an authorized officer of the insurer that states that, to the best of the officer's knowledge, information and belief, the advertisements that were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this regulation and the insurance laws of this state as implemented and interpreted by this regulation.

Drafting Note: Where the regulation was adopted on other than January 1 of the year, the required certification that all advertisements used in the preceding annual statement year complied with the regulation cannot be given. The respective insurance departments should consider remedying the problem in the Certificate of Compliance used for the calendar year in which the regulation was adopted.

Section 19. Severability Provision

If any section or portion of a section of this regulation, or its applicability to any person or circumstance is held invalid by a court, the remainder of the regulation, or the applicability of the provision to other persons or circumstances, shall not be affected.

Section 20. Filing for Prior Review

The commissioner may, at his or her discretion, require filing of any accident and sickness insurance advertising material for review prior to use.. The advertising material shall be filed by the insurer with the commissioner not less than thirty (30) days prior to the date the insurer desires to use the advertisement.

Drafting Note: This is an example of a regulation that may be used at the option of the commissioner in a state that elects to review advertisements prior to use. The NAIC takes no position on the question of whether advertising material should be subject to prior review by the commissioner.

CREDIT(S)

Legislative History (all references are to the Proceedings of the NAIC)

1956 Proc. I 127, 130, 131-137, 148 (adopted)

1956 Proc. II 270, 301, 315 (interpretive guidelines established).

1957 Proc. I 76, 89-90, 99 (amended).

1972 Proc. I 15, 16, 555, 557, 563-580 (amended and reprinted).

1973 Proc. I 9, 11, 141, 224, 244-250 (amended and reprinted).

1974 Proc. II 8, 10, 380, 419, 420-441 (amended and reprinted).

1989 Proc. I 24-25, 702, 706-726 (amended and reprinted).

1998 Proc. 4th Quarter 16, 17, 652, 654, 688-712 (amended and reprinted).

Exhibit 10 – State Adoption Table – Advertisements (Accident & Sickness)

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (N.A.I.C.)
MODEL LAWS, REGULATIONS AND GUIDELINES
N.A.I.C. MODEL LAWS, REGULATIONS AND GUIDELINES
VOLUME I
ACCIDENT AND HEALTH INSURANCE CONSUMER PROTECTION
ADVERTISEMENTS OF ACCIDENT AND SICKNESS INSURANCE MODEL REGULATION
NAIC 40-27

State Adoption Table

KEY:
MODEL ADOPTION: States that have citations identified in this column adopted the NAIC model in a uniform and substantially similar manner. This requires states to adopt the model in its entirety but does allow for minor variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: States that have citations identified in this column have **not** adopted the NAIC model in a uniform and substantially similar manner. Examples of Related State Activity include: An older version of the NAIC model, legislation or regulation derived from other sources and Bulletins and Administrative Rulings.

NO ACTION TO DATE: No state activity on the topic as of the date of the most recent update.

NAIC MEMBER:
MODEL ADOPTION:
RELATED STATE ACTIVITY:

NAIC MEMBER: Alabama
MODEL ADOPTION:
RELATED STATE ACTIVITY: Ala. Admin. Code r. 482-1-013 (1972/2003).

NAIC MEMBER: Alaska
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: American Samoa
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Arizona
MODEL ADOPTION: Ariz. Admin. Code § 20-6-201 (1969) (Similar to model).
RELATED STATE ACTIVITY:

NAIC MEMBER: Arkansas
MODEL ADOPTION: Ark. Code R. § 11 (1981/1991); § 41 (1989).
RELATED STATE ACTIVITY:

NAIC MEMBER: California
MODEL ADOPTION: Cal. Code Regs. tit. 10, §§ 2535.2 to 2537.2 (1972/1973) (Includes Interpretative

Guidelines).
RELATED STATE ACTIVITY:

NAIC MEMBER: Colorado
MODEL ADOPTION: Colo. Code Regs. § 4-2-3 (1975/2010).
RELATED STATE ACTIVITY:

NAIC MEMBER: Connecticut
MODEL ADOPTION: Conn. Agencies Regs. §§ 38a-819-1 to 38a-819-20 (1975).
RELATED STATE ACTIVITY:

NAIC MEMBER: Delaware
MODEL ADOPTION: 18 Del. Code Regs § 1302 (1973/2003).
RELATED STATE ACTIVITY: FORMS AND RATES BULLETIN 6 (1990/1992).

NAIC MEMBER: D.C.
MODEL ADOPTION:
RELATED STATE ACTIVITY: D.C. Mun. Regs. tit. 26, § 211 (1972) (Some similarities, references model).

NAIC MEMBER: Florida
MODEL ADOPTION: Fla. Admin. Code Ann. r. 69O-150.001 to 69O-150.021 (1974/2000).
RELATED STATE ACTIVITY: Fla. Admin. Code Ann. r. 69O-150.201 to 69O-150.219 (1993/2000) (Small employer plan advertising).

NAIC MEMBER: Georgia
MODEL ADOPTION: Ga. Comp. R. & Regs. 120-2-12-.01 to 120-2-12-.22 (1965/2007); 120-2-44-.08 (1989/1997).
RELATED STATE ACTIVITY:

NAIC MEMBER: Guam
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Hawaii
MODEL ADOPTION:
RELATED STATE ACTIVITY: Haw. Rev. Stat. § 431:10A-310) (1989) (Medicare supplement insurance advertisements).

NAIC MEMBER: Idaho
MODEL ADOPTION:
RELATED STATE ACTIVITY: Idaho Admin. Code r. 18.01.24.000 to 18.01.24.024 (1993/2007) (disability).

NAIC MEMBER: Illinois
MODEL ADOPTION: Ill. Admin. Code tit. 50, §§ 2002.10 to 2002.190 (1975/2004) (Includes Interpretive Guidelines).
RELATED STATE ACTIVITY: 215 Ill. Comp. Stat. 5/363a (2003) (Medicare supplement insurance advertisements).

NAIC MEMBER: Indiana
MODEL ADOPTION: 760 Ind. Admin. Code 18 (2007) (Adopts some NAIC language, some of Interpretive Guidelines).
RELATED STATE ACTIVITY:

NAIC MEMBER: Iowa
MODEL ADOPTION: Iowa Admin. Code r. §§ 191-15.1 to 191-15.14 (1997/2009) (Portions of model).
RELATED STATE ACTIVITY: Iowa Code § 514D.5 (Medicare supplement insurance advertisements);

NAIC MEMBER: Kansas
MODEL ADOPTION: Kan. Admin. Regs. § 40-9-100(1982/2001) (Adopts NAIC 1999 model by reference with exceptions); § 40-4-37p.
RELATED STATE ACTIVITY:

NAIC MEMBER: Kentucky
MODEL ADOPTION: 806 Ky. Admin. Regs. 12:010 (1975).
RELATED STATE ACTIVITY:

NAIC MEMBER: Louisiana
MODEL ADOPTION: La. Admin. Code tit. 37, §§ XI.1301 to 37:XI.1337 (Rule 3) (1973).
RELATED STATE ACTIVITY: La. Admin. Code tit. 37, § 137 (1991) (Medicare supplement insurance advertisements).

NAIC MEMBER: Maine
MODEL ADOPTION: Me.Code R. 140 (1973).
RELATED STATE ACTIVITY:

NAIC MEMBER: Maryland
MODEL ADOPTION: Md. Code Regs. §§ 31.15.02.01 to 31.15.02.18 (1956/1968).
RELATED STATE ACTIVITY:

NAIC MEMBER: Massachusetts
MODEL ADOPTION:
RELATED STATE ACTIVITY: 211 Mass. Code Regs. 40.01 to 40.16 (1996) (Entitled "Marketing of Insured Health Plans") (Similar to model); 175 Mass. Gen. Laws 110E (1973/1984).

NAIC MEMBER: Michigan
MODEL ADOPTION: Mich. Admin. Code R. 500.651 to R.500.669 (1975/1997).
RELATED STATE ACTIVITY:

NAIC MEMBER: Minnesota
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Mississippi
MODEL ADOPTION: Miss. Code R. § 74-3 (1975)(Guidelines adopted by reference).
RELATED STATE ACTIVITY: Miss. Code Reg. § 88-105 (1989) (Medicare supplement insurance advertisements).

NAIC MEMBER: Missouri
MODEL ADOPTION: Mo. Code Regs. Ann. tit. 20, § 400-5.700 (1964/2003) (Incorporates the NAIC Interpretive Guidelines by reference).
RELATED STATE ACTIVITY: Mo. Code Regs. Ann. tit. 15, § 30-53.010 (1968/2009).

NAIC MEMBER: Montana
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Nebraska
MODEL ADOPTION: 210 Neb. Admin. Code § 14 (1975/1994).
RELATED STATE ACTIVITY:

NAIC MEMBER: Nevada
MODEL ADOPTION: Nev. Admin. Code §§ 689A.010 to 689A.270 (1972/2003).
RELATED STATE ACTIVITY: Nev. Admin. Code §§ 687B.225 to 687B.227 (1989/2009); BULLETIN NO. 24 (1972).

NAIC MEMBER: New Hampshire
MODEL ADOPTION:
RELATED STATE ACTIVITY: N.H. Code Admin. R. Ann. Ins. 2601.01 to 2601.20 (1996/1999).

NAIC MEMBER: New Jersey
MODEL ADOPTION: N.J. Admin. Code §§ 11:2-11.01 to 11:2-11.22 (1972/2001).
RELATED STATE ACTIVITY:

NAIC MEMBER: New Mexico
MODEL ADOPTION: N.M. Code R. §§ 18.4.1 to 18.4.23 (1997).
RELATED STATE ACTIVITY:

NAIC MEMBER: New York
MODEL ADOPTION: N.Y. Comp. Codes R. & Regs. tit. 11, §§ 215.1 to 215.18 (Regulation 34) (1973/2009).
RELATED STATE ACTIVITY:

NAIC MEMBER: North Carolina
MODEL ADOPTION: N.C. Admin. Code 12.0516 to12.0536 (1978/2010).
RELATED STATE ACTIVITY:

NAIC MEMBER: North Dakota
MODEL ADOPTION: N.D. Admin. Code 45-06-04-01 to 45-06-04-12 (1988).
RELATED STATE ACTIVITY:

NAIC MEMBER: Northern Marianas
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Ohio
MODEL ADOPTION: Ohio Admin. Code 3901-8-07 (2009).
RELATED STATE ACTIVITY: Ohio Rev. Code Ann. § 3923.336 (Medicare supplement insurance advertisements).

NAIC MEMBER: Oklahoma
MODEL ADOPTION: Okla. Admin. Code §§ 365:10-3-1 to 365:10-3-20 (1973).
RELATED STATE ACTIVITY:

NAIC MEMBER: Oregon
MODEL ADOPTION: Or. Admin. R. 836-20-200 to836-20-295 (1973/2005).
RELATED STATE ACTIVITY: BULLETIN 2009-5 (2009).

NAIC MEMBER: Pennsylvania
MODEL ADOPTION: 31 Pa. Code §§ 51.1 to 51.43 (1973/1976).
RELATED STATE ACTIVITY:

NAIC MEMBER: Puerto Rico
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Rhode Island
MODEL ADOPTION: R.I. Code R. §§ 27-23-1201 to27-23-1218 (1979) (Includes Interpretive Guidelines).
RELATED STATE ACTIVITY: R.I. Code R. § 47 (2009) (Medicare supplement insurance advertisements).

NAIC MEMBER: South Carolina
MODEL ADOPTION: S.C. Code Ann. Regs. 69-17 (1974).
RELATED STATE ACTIVITY:

NAIC MEMBER: South Dakota
MODEL ADOPTION: S.D. Admin. R. § 20:06:10 (1973/2006).
RELATED STATE ACTIVITY:

NAIC MEMBER: Tennessee
MODEL ADOPTION: Tenn. Comp. R. & Regs. 0780-1-8 (1974).
RELATED STATE ACTIVITY:

NAIC MEMBER: Texas
MODEL ADOPTION: Tex. Admin. Code §§ 21.101 to 21.122 (1981/2009) (portions of model
RELATED STATE ACTIVITY:

NAIC MEMBER: Utah
MODEL ADOPTION: Utah Admin. Code r. 590-130 (1989/1990).
RELATED STATE ACTIVITY:

NAIC MEMBER: Vermont
MODEL ADOPTION: Vt. Code R. § 71-1 (Revised 1973).
RELATED STATE ACTIVITY:

NAIC MEMBER: Virgin Islands
MODEL ADOPTION: NO ACTION TO DATE
RELATED STATE ACTIVITY:

NAIC MEMBER: Virginia
MODEL ADOPTION: 14 Va. Admin. Code §§ 5-90-10 to5-90-180 (1975/2009).
RELATED STATE ACTIVITY:

NAIC MEMBER: Washington
MODEL ADOPTION: Wash. Admin. Code 284-50-010 to 284-50-230 (1973/1976).
RELATED STATE ACTIVITY:

NAIC MEMBER: West Virginia
MODEL ADOPTION: W. Va. Code R. §§ 114-10-1 to 114-10-20 (1973).
RELATED STATE ACTIVITY:

NAIC MEMBER: Wisconsin
MODEL ADOPTION: Wis. Admin. Code Ins. § 3.27 (1973/1999).
RELATED STATE ACTIVITY:

NAIC MEMBER: Wyoming

MODEL ADOPTION: 21 Wyo. Code R. (1974/1997).

RELATED STATE ACTIVITY:

This state page does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the laws cited should be consulted. The NAIC attempts to provide current information; however, due to the timing of our publication production, the information provided may not reflect the most up to date status. Therefore, readers should consult state law for additional adoptions and subsequent bill status.

Exhibit 11 – 100 Testimonials from Credit Protection Product Consumers

"You have been so good to me. When I was injured and had to wait for workers compensation, I would have lost everything."

DONNA B., MI

"Thank you for your attention to my claim. It's difficult enough to think of life without my husband without also being so frightened of the practical aspects of his death. Your help has made those fears quieter"

Mary C., NY

"Our loan was handled to the point where we did not have to worry about whether or not the payment would be made. It also assisted us in dealing with other issues such as surgical recovery, physical therapy or what have you, which was the most important part of this whole process. Your professionalism and quick response to our concerns have made my recovery such as it is, very possible. If it were not for the insurance coverage that your company provided we would not have been able to keep our car payments up, making a bad situation worse. Thank you all very, very much and God bless you all."

Orlando G., CA

"I want to sincerely thank you and your company for taking the burden off of me with paying this payment. I am grateful the insurance was offered to me, I just didn't think I would need it or at least not this early."

Esther H., TN

"My wife was diagnosed with cancer three months after having our baby daughter. Initially I was upset with her for buying the disability insurance when she bought the car, but now I'm not sure how we would be able to get through this time without the help from Minnesota Life."

Mark W., FL

File notes from telephone call: Insured was very appreciative of all the help Minnesota Life has provided. She was literally in tears thanking our company for assisting her in ther time of need.

Marian B,

File notes from telephone call: Wife of the insured wanted to say that this insurance has been wonderful and she will never pass up the opportunity to obtain insurance again.

Barbara B., TX

"I can't explain how thankful and how blessed I am for your company and employees. Thank God for all you do. We need more companies and people like you in this world."

Betty B., MS

"Very helpful during a stressful time. Excellent customer service."

Joe B., AK

"You have made the difficult health changes in our lives easier by the kindness and efficiency. You handled our claims for over 3 years."

Donald B., WA

"The excellent service of Minnesota Life made the stress of my situations so much easier to deal with."

Barry B., IN

"I would like to thank you so much for all your help in this rough time with my ankle. Thank you."

Robert B., CA

"During the last several months it has been the one relief that I could count on!"

MICHAEL D C., NY

Email message: "Thank you very much. You have been a great help, in fact, the only help!! The goverment has been NO help."

Janis C., PA

"We want to thank you for the benefits you have paid in full. Your company has been very professional and co-operative. It has been of great help to us. My wife is still disabled and going through more surgeries."

Donna (and Jack) C., CA

File notes from telephone call: Insured is grateful to Minnesota Life, for without our help he would have lost his home.

Burt D., RI

"I appreciate all you have done for me. It makes being disabled a little easier."

Loretta F., OK

"Very good; has helped more than I can express."

Patricia F., NC

"[N]ever thought I'd be jobless or losing hearing in both ears."

Susan F., WI

File notes from telephone call: [Spouse of the insured] was so overwhelmed that her house was paid off that she started to cry and couldn't say thank you enough.

Mrs. F.

"I am very satisfied with everything you have done. I'm so glad I had this coverage, it helped me so much. I highly recommend Minnesota Life's disability & IRAs. Thanks so much! I always thought disability insurance was a waste of money. It sure isn't!"

GLORIA G., WA

"I can't thank you enough for your help while I am out of work."

MaryJane G., MA

"After going thru cancer twice I can only say that I deeply appreciate your help thru this timely process."

Jan G., IN

"Everyone involved was extremely helpful & kind... I'm so thankful to have this help. I'm very happy to have purchased the coverage, but I would much rather be healthy."

LAWRENCE G., IN

"My loan company contacted Minnesota Life for me. Everything was handled perfectly. Thank you ever so much! I made it back to work after my cancer."

Linda G., PA

"Outstanding services in our time of need."

DONNIE G., AL

File notes from telephone call: Insured was very grateful. The loan will be paid off. She has been very pleased with our service and thinks we do a wonderful job paying claims when they need to be paid.

Maryanne G., PA

"With all that has happened in the past several months, I consider myself so "lucky" to have had the good sense to purchase the insurance coverage that your company has had to offer. Without it, I would certainly lose the only form of transportation that my husband has to continue to work."

Tammy G., WV

"There is nothing you can do to provide a better service, I am very pleased with the way you are helping me pay for my Car. I am very satisfied, Without your help i would not make it."

MAXIMINO G., CA

"I'm thankful I got the service."

Edwviges G., CA

"I am so thankful I had this insurance. I have recommended your Insurance to many people."

MAUREEN A H., CA

"Thank you for your support. I couldn't have made it without your help."

Thomas H., KY

"In the name of God thank you for all your help, which continues to be needed".

James H., HI

"Thanks for all of your help in this time of need."

Donna H., CA

File notes from telephone call: Insured is very thankful for helping her out. She stated we have kept one stress off her, and she is very appreciative of that. She thanked us a million times over for all that we do.

Kim H., PA

File notes: Spouse of the claimant, sent a special thank you for helping them with their financial difficulties by honoring benefits on Don's disability claim. She states "thanks for going the extra mile and we can't thank you enough for getting it all worked out. You took alot of stress off of our shoulders."

Don H., MI

"I am very well pleased and I have already recommended your insurance to people."

LINDA J., MI

"I am writing today just to let you know how much I have appreciated your help during my disability…I cannot put into words how much your efforts have meant to me."

James J., CA

"At my lowest and most vulnerable time, you gave me hope and handled my claim so well in spite of my numerous questions and calls I made to you. You called me back quickly and seemed genuinely concerned about my claim and making things go smoothly. I work with the public too and I know it is not always easy what you do, but you do it so well. Again, thank you so much. I'm so thankful to be back at work now."

Shelly J., CA

"Every day is a struggle. Thank God for you and your company. I don't know what I would do if it was not for the help you have given me. Thank you so very much. God bless."

Donald K., PA

"My injury caused my premature retirement. Without the great service and help from Minnesota Life, I would have lost my home."

H Nick K., PA

"I was very pleased, You made a difficult period easier."

MARI JO E I K., MI

"I really appreciate the service that Minnesota Life has offered. (Thank you), During my time of dispair."

FELICIA S L., AZ

File notes from telephone call: She was very appreciative of the payments we made as she will now be able to keep her house. She would have preferred to have [her husband], but only if he could be well and that just wasn't meant to be.

Donna L.

"I could not ask for better service. Even when I was late on sending in the information, you were always timely in sending the payment once you received it. I thank you for allowing me to have 'Peace of Mind'."

AMINATA L., NY

"I have been very impressed with the handling of my claim. I thank you for your wonderful business ethics and honesty."

SUSINN M., WA

"I appreciate all you've done for me and my wife. Paying our vehicle payments has made a huge relief to us financially easing our burden since I'm unable to work. Thank you and may God bless you."

RODNEY M., IA

" I am writing this letter as a Thank You for paying off my mortgage to Washington Mutual on [date]. As you are fully aware, My husband passed away on [date]. I must admit that I was so very happy, that you found favor for my children and I. I have 6 children, My oldest son David Anthony is away at College, My second son Justin is at home and works full time to help us, but because yof your decision wil go off to school in January. My daughter Rachel is 14. We also adopted one of our foster children named Vanessa and she is 12. I have 2 foster daughters that am raising Kayla 17 and Sam 12. Again I just want to Thank You for what you did for us, I pray that everyone involved will be greatly blessed. God will surely reward you for caring for the widow and her children."

Tona M., PA

"I'm very thankful and happy with your services. Without your help I wouldn't be able to pay for my car."

VIRGINIA M., WI

"Thank you for all of your help, it was a blessing to have this loan taken care of."

Oscar N., AZ

"Everytime we call the associates always help us and document when we called. They always have been there to help us at this difficult time."

JUSTIN N., CA

"Overall, I would recommend to all who purchase a vehicle."

Sandra N., WA

"Thank you for your help during my time of need. I am so glad I had your disability protection plan. I tell everyone I can to invest in it as it will be a blessing during their time of need. I really appreciate ya'll. Thanks!!"

Paula P., TEXAS

File notes from telephone call: Insured just wanted to call and thank Minnesota Life for all of our help during her claim. She never would have been able to pay off her trailer if we weren't there to help during her illness.

Wanda P., IND

"Everything was paid as promised. Thank you so much. I would recommend this insurance to all I know."

MARYLEA P., MN

"They were prompt and courteous. I am so glad I had bought this policy. I am very satisfied."

BRIAN R., MO

File notes: Claimant returned her completed claim form indicating she had returned to work after being disabled for five months. She stated: "I cannot say thank you enough for all your help during a very difficult time."

Kathleen R., RI

"Minnesota Life is the best. Thank you for being there in my time of difficulty."

TOMMIE R., TX

"Loan is now paid off in full. It really did take a great stress off of me. I really appreciate your prompt and courteous action."

HELEN R., WA

"I would like to thank your company for helping me out in a very rough time. Your swiftness helped me keep up with bills and every day necessities!"

Christine R., NY

"The service has been second to none, this situation I'm in now was definitely not forseen. I'm thankful that you folks and your service was here for me."

Thomas R., PA

"Your people have sent/paid my payments. I don't know what I would have done if it was(is) like standard insurance for disability payment."

Sharon S., WA

File notes from telephone call: Insured called to say thank you - we are wonderful. He would have lost everything if it had not been for Minnesota Life.

Royce S., AL

"Thank you for the ability to use Minnesota Life. It brings me great relief to know they will help for certain number of months".

Kari S., MI

"This life altering injury has brought new meaning to my life and I am very appreciative for Minnesota Life."

Luan S., PA

"I have been completely restricted for 3 years and 8 months, 2 Heart surgeries, 1 Cancer surgery, 2 more Heart surgeries to go, And Hernias in my Chest and Abdomen, Yet to be Operated on. You know what? I am very happy to do what you ask of me. Thank you for what you've done. I thank you every day of my life."

DAVID R S., FL

"I want to thank whoever worked on the continuance of benefits for claim [#] for moving so quickly on it. The money was in my account in time for my monthly mortgage payment, and I sincerely appreciate your expedition of my request."

Karen S.,

"Thanks for reaching out in helping me support myself."

Scott T., FL

"I was very satisfied with your great caring people and the service provided. Your help during this most difficult time was greatly appreciated."

Judith T., PA

"Having to retire early with end stage renal disease was a tragedy for myself and my family. Your support made all of the difference in the world."

Lorenzo T., FL

"You have helped me and my family out more than I could have ever imagined! Without your help we would have nothing."

Grant T., OR

"I am very satisfied thanks to prompt service we were able to keep our vehicles. Thank you!"

J Jesus V., WA

"Thank you for your understanding. This policy has been great help in my time of need and I would recomend you to anybody."

Thomas W., CA

"Thank you for helping us while I was ill. Without this insurance my family would have lost everything".

Mark W., ILL

"I will like to use this service in the future."

Paul W., PA

File notes from telephone call: Insured wanted to thank us for being his Godsend. We have "been great working with him." He stated that being disabled is depressing and he was thankful for us and all that we did.

Harry Z., IN

"I was so scared my claim would be suspended because I misplaced a Form and was sick, and forgot to have another one filled out so late by my Doctor, But the claim was held open for me and paid on the Receipt of the Form. Thank you so much for understanding and paying my Claim."

NANCY M A., SC

"At this time I would like to thank you for what you have already done. You have been very helpful to me each time I have called and have treated me with great respect."

Robert A., OK

"You ROCK! I'm so happy, I could cry! Thanks a Million!"

Jennifer B.

"I highly recommend this insurance to my friends - please contact me on how I can get them to join also."

Guadalupe B., FL

I would like to express my appreciation to each of you who took the time to reinstate the lapsed policy of my late husband. It was an unual situation brought on by the terrible disease of alzheimers. My burden has been lightened by your thoughtful and professional consideration of this matter.

Marjorie B., GA

"I wanted to thank you and your company so much for the expedient response in protecting the payments of our loans. You have truly been a pleasure to work with. I cannot thank you enough for helping us through these difficult times".

Elaine B.

"I've had a really good experience with you, with everything me and my family went through you gave us peace on your end."

ALDO C., NE

"I am definitely a believer!! [I] put your coverage on my loans with the Credit Union and became disabled due to foot surgery. My claim has been handled efficiently! Thank you all at Minnesota Life."

Marjorie C., FL

"It was a wonderful experience and has helped me extensibly. Thank you!"

MARY ANN C., GA

"Thank you Minnesota Life for the great handling of my claim. Minnesota Life did what they were supposed to do!"

Norman E.

"Minnesota Life has always been there for me from the very start. I thank you so much."

Doug G., TX

"I would like to thank you and all that have assisted me with processing the claim forms. The past 6 months for me has been a little overwhelming due to the unemployment. I am hoping for a breakthrough soon. I would not have made it had it not been for Minnesota Life insurance. Thanks again."

Ruth G.

"My claim has been handled with dignity and respect in regards to my disability. Thank you very much."

Ronald H., MD

"I appreciate the fact that it was brought to a relatively quick conclusion, which means my family and I can move farther ahead with our lives after losing my dad."

John H., MN

File notes from telephone call: [Spouse] is only calling to thank us for the quick service in processing his wife's claim. It only took 2 weeks. He is very impressed with that and wants to thank us for quick service and even making up the payment he made after his wife's death."

Carol J.

File notes from telephone call: Insured stated that if he ever were to have insurance on another loan, he would want it to be with our company.

Ronald J., TN

"Do not change anything. I am very satisfied with your service and would highly recommend your company ro anyone."

Aretha J., KS

"Thank you for your Company's excellent service, I have never seen a Company move so fast, And answers your questions so fast, I have two Daughters who need to get one for their Home, How or can they get this for their Home Disability Insurance?"

HENRY H K., HI

File notes from telephone call: Insured called on [date] to say he had been released to return to work full duties. He wanted to say how thankful he was for having this insurance and to everyone who worked on his claim.

Charles K., PA

"I would like to take this opportunity to say THANK YOU for the excellent, hassle free service you have provided for me during this time".

Warren L., PA

File notes from telephone call: Insured called to inform us that she will be returning to work and she is very happy with our service.

Marlene L., MN

"Follow up, timeliness, and courtesy have been amazing and impeccable. I thank you all so much for helping me through this. Thank you all for your courtesy, promptness and respect."

Linda L., NY

"It's nice to know there is a company that actually stands behind you when you need them."

LAURA L., PA

"Both myself and my children thank you for your professionalism and compassion during a difficult time. Each time I called I was greeted with patience and understanding and I can't tell you how much this truly means to me. Each of 'you' special people from operations helped make this just a little more tolerable."

Gloria M., MD

File notes from telephone call: insured stated "Minnesota Life is a first class company. Is comforting to rely on us at this time of need."

Dennis M., FL

"When I came home from work on Friday October 14th I received in the mail the confirmation that you had paid my husbands 2 loans off to Allegis Credit Union. I broke down and cried. I want to thank each person who had a part of that decision. A weight had been taken off my shoulders. When I went to the credit union to get the lien off the car, I took out a loan in my name to pay his credit card off. His debt is cleared. Thank you again with my deepest gratitude".

Deborah N.

"Your worker was very informative, was kind and compassionate. While I was having a hard time with my employment."

SHERRY O., MI

"These people are the best people I've ever dealt with in my whole life. Worker's compensation has been no good to me."

TIMOTHY O., ND

"Everything was taken care of and I'm raring to go!!!"

Wilberforc P., MI

"Minnesota Life is a very good company. I think everyone should use it. Because I'm telling all of my friends about you. The working man needs good companies like you. Thank you so very much for all of your help."

RONALD R., PA

"I'm happy the way my claim and service is being handled. I would recommend Minnesota Life to family and friends."

Salvatore R., CA

"I'm thankful for the benefits!"

Sandra S., NY

"You were there when I needed you. for that I am happy. I've had no stress over my loan."

VALLARA S., NE

"This is a thank you note for your efficient, professional manner these last six months you have handled my claim. Whenever I spoke to you via phone you were always pleasant. Never once did I have any concerns about late payments or mix-ups with my account. This meant a lot to me - thank you. Being unemployed these last 6 months has been difficult but you and Minnesota Life made it a bit better."

Bessie S.

E-mail from credit union loan officer - "[T]hat wonderful Securian has made someone very happy. Today our member came in and found out that Securian had paid off her two loans with us (this is the loan where the member turned 70 and passed away around 10 days later). She put her head down and cried when she found out. It ws really wonderful to know that your Company went the extra mile. Another great testamentary on why loan protection is so important. Thank you from the Silverdale branch".

Lorie D., WA

"I am grateful that I chose this company. I mention Minnesota Life to my friends and family a lot."

Willie S., SC

"I have been with Minnesota Life Insurance Compnay for a long time and Minnesota Life is the best I've ever seen. And thank you for understanding my condition at the time of need. And God bless all of you at Minnesota Life."

Kathy T., CA

"Very professional, easy to work with during difficult family times. Thank you."

Adam W., CA

You went to great lengths to give the CU some relief with this member and I appreciate that!! As always.

Karen W.

I have never had a complaint from my bank institution about my bill being late. I thank you so much for this.

Robert Y., WV