

## PROJECT HISTORY

### MILITARY SALES PRACTICES MODEL REGULATION

#### 1. Description of the Project, Issues Addressed, etc.

During the NAIC 2006 Winter National Meeting the, NAIC membership appointed a new Military Sales (EX) Working Group to assist state insurance regulators in achieving applicable directives set forth in the Military Personnel Financial Services Protection Act.

#### 2. Name of Group Responsible for Drafting the Model and States Participating

Military Sales (EX) Working Group. The states of Georgia and Texas chaired the working group. The following states participated on the working group: Florida, Illinois, Iowa, Massachusetts, New York, North Carolina, North Dakota, Oklahoma and Virginia.

#### 3. Project Authorized by What Charge and Date First Given to the Group

The working group was formed in December of 2006, through the NAIC's adoption of a resolution establishing the Military Sales (EX) Working Group. This resolution stated the following: "...the primary purpose of the new working group is to assist the organization in achieving those applicable directives set forth in the Military Personnel Financial Services Protection Act; and, furthermore, the new working group will coordinate with the Market Analysis Working Group regarding any further multi-state settlements against companies engaged in inappropriate sales practices specifically targeted to members of the Armed Forces."

#### 4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The Military Sales (EX) Working Group drafted the model regulation and solicited input from all interested parties. In addition to the working group members, the following states submitted comments on the model regulation: New Hampshire, Ohio, Pennsylvania and Virginia.

The working group worked very closely with the Department of Defense throughout the development of the model regulation. This coordination included a face meeting on March 5, 2007,

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The drafting process followed the following timeline with an opportunity for all interested parties to comment:

The first draft of the model regulation dated February 2, 2007, was circulated for public comment on February 5, 2007. The working group received comments on the draft until February 13, 2007. The working group received

supports extending the scope of the Model Regulation to capture these and other prohibited practices occurring off base.

Section 6 of the model regulation addresses practices declared to be false, misleading, deceptive or unfair on a military installation while Section 7 of the model regulation addresses practices declared to be false, misleading, deceptive or unfair regardless of location.

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7. Any Other Important Information (e.g., amending an accreditation standard).

Federal Law Considerations

Responding to 30 years of documented abuse regarding the sale of life insurance to members of the military by a very small segment of the industry, Congress passed and President Bush signed on September 29, 2006, the *Military Personnel Financial Services Protection Act*, Congress found it imperative that members of the United States Armed Forces be shielded from “abusive and misleading sales practices” and protected from certain life insurance products that are “improperly marketed as investment products, providing minimal death benefits in exchange for excessive premiums that are front-loaded in the first few years, making them entirely inappropriate for most military personnel.”

To address these concerns, Congress required that the “States collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation,” and that each state report to Congress by September 29, 2007, on the progress made regarding its adoption of the standards collectively developed. To insure that service members are offered only “first rate financial products” Congress also called on the NAIC in coordination with the Secretary to report to it on “ways of improving the quality of and sale of life insurance products by creating standards for products specifically designed to meet the particular needs of members of the Armed Forces, regardless of the sales location.”

The Military Sales Practices Model Regulation was developed to meet these dual Congressional mandates. It makes actionable certain acts and practices which until now have not been declared to be false, misleading, deceptive or unfair under state trade practices statutes. Many of the practices identified incorporate DoD solicitation rules. For example, the Model Regulation, tracking DoD regulations, makes it a deceptive trade practice to solicit in barracks, day rooms and other restricted areas.

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

Incorporation of DoD Regulations

The Model Regulation tracks or incorporates relevant DoD solicitation regulations in DoD Instruction 1344.07: *Personal Commercial Solicitation on DoD Installations*, and Army Regulation 210-7: *Commercial Solicitation on Army Installations*. These regulations identify sales practices directed at active-duty service members.