

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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2007 JUL 27 PM 4:00

SECRETARY OF STATE
STATE OF WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY WV Code §33-2-10 and 33-4-21

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

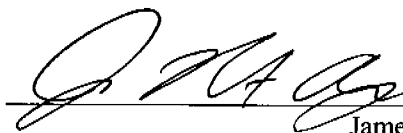
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 82

TITLE OF RULE BEING PROPOSED: Military Sales Practices

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



James Robert Alsop
Cabinet Secretary
West Virginia Department of Revenue

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 27, 2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER
ATTN: Legal Division
1124 Smith Street
Post Office Box 50540
Charleston, West Virginia 25305-0540

LEGISLATIVE RULE TITLE: Military Sales Practices - Title 114,
Series 82

1. Authorizing statute(s) citation:

WV Code §§33-2-10 and 33-4-21.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 19, 2007 - Comment Period.

b. What other notice, including advertising, did you give of the hearing?

N/A

c. Date of Public Hearing(s) or Public Comment Period ended:

Comment period ended July 19, 2007.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 27, 2007

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)**

Timothy R. Murphy, Associate Counsel
West Virginia Insurance Commission
Legal Division
P.O. Box 50540
Charleston, WV 25305-0540
Phone: (304) 558-6279, Ext. 1210
Fax: (304) 558-1362
E-mail: timothy.murphy@wvinsurance.gov

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)**

Same.

- 3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:**

N/A

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.**

N/A

- b. Date of hearing or comment period:**

N/A

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?**

N/A

- d. Attach findings and determinations and reasons:**

N/A

One comment was received from the American Council of Life Insurers commending OIC's proposal of the rule in the form of the NAIC model. In addition to pointing out some technical errors, ACLI recommended that §7(F)(5) of the model be included; this section reads in relevant part as follows:

(7)(F) The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair: ... (5) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service save and except for accidental death coverage which may be excluded.

The reason for omission of this language was WV Code §33-13-25(a)(1), which permits such an exclusion:

(a) No policy of life insurance shall be delivered or issued for delivery in this State if it contains a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(1) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;...

Upon reconsideration, the Commissioner has decided to include the model's language. The Commissioner believes that the permissive language in §33-13-25(a)(1) may be limited under the circumstances addressed by the proposed rule. Furthermore, in addition to promoting uniformity among the states that are enacting the model, the Commissioner believes the purpose of §33-4-21 is served by prohibiting the sale of life insurance that is essentially worthless to the buyer until he or she leaves the military.

In light of W. Va. Code §2-2-10(cc), the severability clause in §6 of the proposed rule has been deleted.



Leah J. Walters
Counsel, State Relations

July 17, 2007

Mr. Timothy R. Murphy
Associate Counsel
Offices of the Insurance Commissioner
1124 Smith Street
Charleston, WV 25305

RE: Proposed Series 82, Military Sales Practices

Dear Mr. Murphy:

This letter is submitted on behalf of the American Council of Life Insurers (ACLI), a national trade association of legal reserve life insurance companies whose 373 member companies account for 93 percent of total assets, 91 percent of the life insurance premiums, and 95 percent of annuity considerations in the United States. Two hundred and ninety six ACLI member companies are licensed to do business in West Virginia and account for 93 percent of life insurance premiums and 97 percent of annuity considerations. ACLI appreciates the opportunity to comment on the above-captioned proposed Rule regarding Military Sales Practices.

ACLI commends the West Virginia Insurance Department for adopting this Rule. The adoption of the NAIC Military Sales Practices Model Regulation in June of 2007 was something ACLI very much supported. The NAIC Model is designed to curtail abusive life insurance sales practices at military installations and the adoption of this NAIC Model across the country will help ensure that the men and women who serve in our armed forces will be protected from such abusive sales. ACLI appreciates that the West Virginia Insurance Department is adopting the NAIC Model, word for word. ACLI has noted, however, a few minor discrepancies that we wish to bring to your attention.

- Section 114-82-3.1(g)(3) provides for a "tax exempt organization under Section 457 of the IRE;" ACLI believes that it should say "IRC."

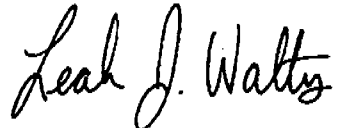
- Section 114-82.5.6 is missing a section (e) which would correspond with Section 7(F)(5) of the NAIC Model. This is the last sentence in Section 7 of the NAIC Model and so perhaps it was inadvertently left out. It reads as follows: "Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g. double indemnity, which may be excluded." ACLI respectfully recommends adding this provision to Proposed Rule 82 so that the Rule does indeed track the NAIC Model word for word. Adopting this NAIC Model word for word across the country will make implementation and enforcement much easier for both insurance companies and Insurance Departments.

ACLI also strongly recommends that the West Virginia Insurance Department give insurance companies six months to implement this Rule, as provided in the NAIC Model. The January 1, 2008 effective date in the NAIC Model was the product of extensive discussions among the NAIC Executive Committee Military

Sales Working Group, and reflects an important compromise with life insurers and producers. The agreed upon effective date was also essential to ACLI's decision to support the NAIC Model. Implementation of this Rule will require companies to establish a compliance plan, train their insurance producers, and perhaps make system changes. To ensure that all companies, both large and small, can adequately implement this Rule, ACLI would recommend an effective date of six months after adoption.

Again, ACLI applauds the West Virginia Insurance Department for adopting Proposed Rule 82 and we appreciate that the Rule is virtually the NAIC Model. Please let me know if you have any questions or comments.

Sincerely,

A handwritten signature in cursive script that reads "Leah J. Walters". The signature is written in black ink and is positioned above the printed name and title.

Leah J. Walters
Legislative Director - Mid-Atlantic Region

Insurance Commissioner
Legislative Rule
Title 114, Series 82

MILITARY SALES PRACTICES

TITLE 114, SERIES 82

BRIEF SUMMARY OF RULE

This rule implements WV Code §33-4-21 enacted by the legislature in 2007, that addressed predatory practices in the sales of life insurance products to military personnel. The regulations identify specific practices, both on and off military bases, that are declared to be false, misleading, deceptive or unfair.

Insurance Commissioner
Legislative Rule
Title 114, Series 82

MILITARY SALES PRACTICES

TITLE 114, SERIES 82

STATEMENT OF CIRCUMSTANCES

In response to problems with the sales of life insurance products to military personnel and the lack of clarity regarding the states' authority to act with respect to sales on military bases, Congress enacted legislation in 2006 that specifically authorized state insurance regulators to enforce insurance consumer protection laws on federal military facilities. This bill also provided that the National Association of Insurance Commissioners ("NAIC") would work with the defense department to draft model standards to deal with the problem and that the states report to Congress by 9/07 with regard to their progress in implementing such standards. West Virginia enacted legislation in 2007 that specifically granted the Insurance Commissioner the authority to promulgate an emergency rule to deal with predatory sales practices involving military personnel (SB559, adding §33-4-21). NAIC has recently adopted a model rule and most states have already communicated their intent to adopt the model.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Military Sales Practices (Title 114 - Series 82)

Type of Rule: X Legislative Interpretive Procedural Emergency

Agency: Insurance Commissioner

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

Phone Number: (304) 558-0401 Email:

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule will have no additional fiscal impact upon state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	None	None	None
Personal Services	None	None	None
Current Expenses	None	None	None
Repairs & Alterations	None	None	None
Assets	None	None	None
Other	None	None	None
2. Estimated Total Revenues	None	None	None

Rule Title: Military Sales Practices (Title 114 - Series 82)

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: July 27, 2007

Signature of Agency Head or Authorized Representative



Jane L. Cline, Insurance Commissioner

114CSR82

**LEGISLATIVE RULE
OFFICES OF THE INSURANCE COMMISSIONER**

**SERIES 82
MILITARY SALES PRACTICES**

Section

- 114-82-1. General.
- 114-82-2. Definitions.
- 114-82-3. Exemptions.
- 114-82-4. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation.
- 114-82-5. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location.

RECEIVED

114CSR82

2007 JUL 27 PM 4:00

LEGISLATIVE RULE
OFFICES OF THE INSURANCE COMMISSIONER

SECRETARY OF STATE
STATE OF WEST VIRGINIA

SERIES 82
MILITARY SALES PRACTICES

§114-82-1. General.

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

a. The purpose of this rule is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

b. Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-4-21.

1.3. Filing Date. --

1.4. Effective Date. --

§114-82-2. Definitions.

2.1. "Active Duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than thirty-one (31) calendar days.

2.2. "Department of Defense (DoD) Personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

2.3. "Door to Door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

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2.4. "General Advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

2.5. "Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

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

2.7. "Known" or "Knowingly" means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

- a. Is a service member; or
- b. Is a service member with a pay grade of E-4 or below.

2.8. "Life Insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

2.9. "Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

2.10. "MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

2.11. "Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

2.12. "Side Fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

- a. Accumulated value or cash value or secondary guarantees provided by a universal life policy;
- b. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

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c. A premium deposit fund which:

1. Contains only premiums paid in advance which accumulate at interest;
2. Imposes no penalty for withdrawal;
3. Does not permit funding beyond future required premiums;
4. Is not marketed or intended as an investment; and
5. Does not carry a commission, either paid or calculated.

2.13. "Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

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

§114-82-3. Exemptions.

3.1. This rule shall not apply to solicitations or sales involving:

- a. Credit insurance;
- b. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
- c. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;
- d. Individual stand-alone health policies, including disability income policies;
- e. Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 *et seq.*;
- f. Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501 (c) (23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or
- g. Contracts used to fund:

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1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
2. A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;
3. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;
4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
5. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
6. Prearranged funeral contracts.

3.2. Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS or successor directive.

3.3. For purposes of this rule, general advertisements, direct mail and internet marketing shall not constitute “solicitation.” Telephone marketing shall not constitute “solicitation” provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this rule in any in-person, face-to-face meeting established as a result of the “solicitation” exemptions identified in this subsection.

§114-82-4. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation.

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

- a. Knowingly soliciting the purchase of any life insurance product “door to door” or without first establishing a specific appointment for each meeting with the prospective purchaser.

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b. Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary.

c. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

d. Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

e. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee.

f. Posting unauthorized bulletins, notices or advertisements.

g. Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.

h. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer’s files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

4.2. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

a. Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

b. Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

§114-82-5. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location.

5.1. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

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a. Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

b. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

1. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301 *et seq.* and the regulations promulgated thereunder; and

2. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

c. Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subdivision b of this subsection.

d. Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

e. Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

f. Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

g. Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.

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h. Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or State of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

5.2. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

a. Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor."

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

b. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.

5.3. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

a. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

b. Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

5.4. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

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a. Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive.

b. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive.

c. Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

5.5. The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:

a. Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

b. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

c. Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

d. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16.

e. Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

1. An explanation of any free look period with instructions on how to cancel if a policy is issued; and

2. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of 114 CSR 11C shall be deemed sufficient to meet this requirement for a written disclosure.

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5.6. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

a. Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

b. Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

1. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

2. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

c. Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

1. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

2. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and

3. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

d. Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to

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endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

e. Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, *e.g.*, double indemnity, which may be excluded.