



TheStandard®

## Compliance Alert

Date: March 6, 2008  
To: Annuity Sales Representatives of The Standard  
From: Bill Douglas,  
Compliance Manager, Individual Annuities

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Subject: Military Sales Practices Regulation

States: AL, AZ, AR, CA, CO, CT, DE, FL, GA, HI, IL, IA, KS, LA, ME, MS, MT, NV, NH, NM, NC, ND, OH, OK, OR, RI, SC, TN, TX, UT, VA, WA

Proposed in HI, KY, MD, MO, NJ, VT

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### Purpose

To set forth standards to protect active duty members of the US Armed Forces from dishonest and predatory sales practices.

### Summary

(See **Detailed Analysis** below for a complete analysis and listing of applicable requirements.)

A number of states have adopted the NAIC Model Regulation or a version thereof regarding Military Sales Practices. The Regulation identifies certain sales practices to be false, misleading, deceptive or unfair. The Regulation also lists required activities and documents to be used during the sale of annuities to active duty members of the US Armed Forces.

### Detailed Analysis

#### **Practices On A Military Installation That Are Deemed False, Misleading, Deceptive or Unfair**

- Soliciting door-to-door without prior appointment for each prospective purchaser
- Involuntary mass or captive audience solicitations.
- Making solicitation appointments during normally scheduled duty hours.
- Making appointments or soliciting in areas prohibited by the installation commander.
- Soliciting without first obtaining permission from the installation commander.
- Posting unauthorized bulletins, notices or ads.
- Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation to each prospective purchaser.
- Accepting an application or issuing a contract without first obtaining for the carrier's files a completed copy of any required form which confirms that the applicant has received counseling

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or fulfilled any other requirement(s) of the Dept. of Defense or of any branch of the Armed Forces.

- Using Dept. of Defense personnel as a representative or agent with respect to solicitation.
- Using an insurance producer to participate in any US Armed Forces sponsored education or orientation program.

### **Practices That Are Deemed False, Misleading, Deceptive or Unfair Regardless of Location**

- Producer submissions of allotment forms used by the Armed Forces.
- Knowingly receiving funds from a service member for payment of premium from a financial institution with which the service member has no formal banking relationship.
- Entering into arrangements wherein the service member's allotment for premiums is entered on records as going to "Savings" or "Checking".
- Any arrangement with a depository institution to receive funds from a service member on a direct deposit basis with which the service member has no formal banking relationship.
- Using Dept. of Defense personnel as representatives or agents with respect to solicitation to service members who are junior in rank or grade, or to the family members of such personnel.
- Offering incentives to Dept. of Defense personnel to procure the assistance with solicitation.
- Offering incentives or anything of value to service members of E-4 grade or below for attendance to any event for solicitation.
- Advising service members of E-4 grade or below to change income tax withholding or state of residence for the sole purpose of increasing disposable income to purchase coverage.
- Use of any device or representation that the carrier, the producer or the product is connected to, associated with, or sponsored by the US Government, the US Armed Forces, or any other state or federal agency.
- Soliciting the purchase of coverage through a third party that promotes the welfare of or assists members of the US Armed Forces in such a manner that may confuse or mislead the service member into believing that the carrier, the producer or the product is connected to, associated with, or sponsored by the US Government, the US Armed Forces, or any other state or federal agency.
- Describing the credited interest rate in a manner that implies it is a net return on premium paid.
- Misrepresenting coverage provided by SGLI or VGLI.
- Using any lead generating devices that do not clearly state that the service member will be contacted by a producer, if that is the case.
- Failing to disclose that a solicitation will occur when making an appointment with a prospective purchaser.
- Failing to make, at time of sale or offer, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act".
- Offering coverage that includes a side fund to service members of E-4 grade or below who are currently enrolled in SGLI unless a suitability assessment demonstrably shows that the SGLI death benefit together with any other military survivor benefits, savings, investments, survivor income and other coverage is insufficient to meet the applicant's insurable needs.
- Selling a product to a service member that excludes benefits if death is relative to war, declared or undeclared, or any act related to military service.

### **Exceptions to Military Sales Practices Requirements**

- Group annuities where there is no in-person, face-to-face solicitation or where the contract or certificate does not include a side fund.
- An application to the existing carrier when a contractual change or a conversion privilege is being exercised.

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- An application to the existing carrier when the existing contract is being replaced by the same carrier pursuant to a program filed with and approved by the state insurance commissioner.
  - Contracts used to fund:
    - An employee pension or welfare benefit plan that is covered under ERISA.
    - An employer established and maintained IRC 401(a), 401(k), 403(b), 408(k) or 408(p) plan.
    - A government or church plan under IRC 414.
    - A government or church welfare benefit plan.
    - A deferred compensation plan of a state or local government or tax exempt organization under IRC 457.
    - A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.
    - Settlements of or assumption of liabilities associated with personal injury litigation or any dispute or claim resolution process.

### **CARRIER REQUIREMENTS – SYSTEM TO REPORT DISCIPLINARY ACTIONS**

Insurance carriers are prohibited from entering into or renewing a contractual relationship with an agent who sells coverage on a military installation unless the carrier has implemented a system to report disciplinary actions taken by the carrier or any federal or state government entity against its agents for conduct occurring on a military installation.

The NAIC has implemented a Military Sales Online Reporting System that may be utilized for such reporting purposes. Any reporting via use of the NAIC reporting system will be forwarded to all appropriate state insurance departments. Such use will satisfy the mandate of both federal and state law.

<https://external-apps.naic.org/msors/>

### **Suggested Responsive Actions**

#### **Forms Development and Accessibility by Producers for Military Personnel Sales**

- DD FORM 2885 APR 2006
  - Available at: <http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2885.pdf>
  - To be completed by applicant and sent to the Installation Commander or such Commander's identified representative.
- Form 13995 – *Disclosure of Annuity Sale to Military Personnel*.
  - Available at: <http://www.standard.com/annuities/eforms/13995.pdf>
  - To be signed by applicant. Original to applicant; copy retained by producer; copy sent to company with application.

#### **Suggested Document to be created for Producers involved in Sales to Military Personnel**

- Sample Letter to Installation Commander requesting permission to solicit coverage on the military base.

### **Appointments; Reporting**

- Communicate reporting requirements to MGAs relative to disciplinary actions against producers, i.e. known disciplinary activities relative to The Standard's products must be elevated to us.
- Use NAIC reporting system for purposes of carrier reporting responsibilities.

### **Communication**

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- Heads up to Annuity Management Team
  - Compliance Alert to Annuity Sales & Marketing
  - Compliance Alert to Field once forms are available on website

**Suggested Implementation Date**

ASAP