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**John R. Doubman**  
Secretary & Counsel

September 13, 2002

Honorable Diane Koken  
Insurance Commissioner  
Commonwealth of Pennsylvania  
1326 Strawberry Square  
Harrisburg, PA 17120

**Re: Annuity Disclosure Regulation: 31 Pa. Code Chapter  
83a, Fiscal Note 11-200**

Dear Commissioner Koken:

Despite considerable improvements which have been negotiated in the captioned final form regulation, the Insurance Federation and American Council of Life Insurers will be unable to support it before the Independent Regulatory Review Commission unless further changes moving it toward the NAIC model regulation are made. These are all topics of previous discussion. To our sincere regret, however, the Federation misjudged the strength of our members' insistence that any regulation must not promote the creation by individual states of non uniform provisions or contain special provisions which will necessitate the creation of Pennsylvania specific disclosure materials.

In any event, the six topics which require either a deletion or a clarification in the final form regulation are:

1. **Mandatory First Page Contents:** Section 83a.5.(b) has no parallel in the NAIC model and mandates the contents of a first (conceivably, a cover) page. We recommend deletion of this subsection as the drafters of the model carefully considered what type of disclosure would be most meaningful to consumers and saw no need, in what was intended to be a

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short, clear generic explanation anyway, to dictate the contents of any specific page.

**2. Mandatory Cost of Bonus Disclosure:** Section 83a.5.(a)(4)(iii) also is without a counterpart in the model and mandates that the disclosure go beyond "specifying any bonus" to specify what the tradeoffs in the contract may be which allow the insurer to offer it. A reference to any bonus like the one in the NAIC Model should be added back to (ii) and this subsection should be deleted.

**3. Cash and Annuitization Values Disclosure:** Section 83a.5.(a)(4)(v), while improved, still implies that the insurer specify the actual annuitization value. We have suggested that this provision be dropped, but it could, as ACLI suggests, simply be changed to reveal that the values used under the settlement options provisions to annuitize the contract may be different from the surrender values.

**4. Reports for Equity Indexed Annuities:** Section 83a.8.(2) sets up a specially prepared report for equity indexed annuities. The NAIC contemplated and rejected such a report because it adds little meaningful information for the consumer and is explained in a Special Appendix which the NAIC required be added to the Buyer's Guide. Basically, this subsection should be dropped and the whole Section 83a.8. be rewritten to track Section 6 of the NAIC model.

**5. Right of Review:** Section 83a.7. notes that the Department may request submission of a "completed" disclosure statement. The Department's continuing right to see sales materials is unquestioned and probably does not need to be restated here. In any event, at the least the word "completed" should be deleted so that there is no confusion about any need to make changes in what should be a preprinted form given to the consumer.

**6. Deferred Annuities with no Non-guaranteed Elements:** Section 83a.2.(3) departs from the model in failing to exclude deferred annuities which do not contain any nonguaranteed elements. Frankly, no one can think of such

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a product, but that being the case there is no need to vary from the NAIC model. Our companies would be more comfortable if "and deferred" were added to this subsection following "Immediate."

We appreciate the work your staff has done on the regulation and the important public policy considerations raised. The fact is, however, that with products marketed nationally, like annuity and life insurance, the NAIC's attempt to create model standards and the states' willingness to adopt those standards is critical to insurers' ability to compete against other financial service entities. The national standards offered in the NAIC model are diluted if individual states exceed those standards.

The Federation and the ACLI understand the Department's argument that Pennsylvania's specific language exceeding the model's mandates can become the national standard. However, our members fear that Pennsylvania's new standards may not be those that jurisdictions like Texas, Florida, New York and California accept as their own. When each state takes its own bite at the apple, uniformity is lost and our carriers' ability to compete in bringing products to market expeditiously is jeopardized.

Thank you for attention to our concerns. We look forward to meeting with you to resolve them.

Sincerely,

John Doubman

cc: Brad Harker, Esq.  
Peter Salvatore  
Sally Brown  
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