

It was noted that there was an NAIC staff draft of a guideline that was directed at the insurable interest aspects of COLI and TOLI and it was determined that this draft guideline, dated June 4, 1992, would be the starting point for development of a guideline.

Commissioner Yancey directed NAIC staff to provide each member of the working group and the chair of the advisory committee with a copy of the June 4, 1992, draft guideline and to ask for any comments regarding the draft to be submitted by Aug. 15, 1992. Commissioner Yancey indicated that the group should then be in a position to recommend exposure of a draft guideline at the September meeting in Cincinnati.

Having no further business, the Insurable Interest Working Group of the Life Insurance (A) Committee adjourned at 10:50 a.m.

ATTACHMENT FOUR-D

United States Senate
Committee On The Judiciary
Washington, D.C. 20510-6275

September 18, 1992

Director William McCartney, President
Commissioner Steven T. Foster, President-Elect
National Association of Insurance Commissioners
120 West 12th Street, Suite 1100
Kansas City, Missouri 64105

Re: Consumer Disclosure

Dear Director McCartney and Commissioner Foster:

As you know, the Subcommittee on Antitrust, Monopolies and Business Rights has held a series of oversight hearings on insurance industry practices and policies. On June 23, 1992, the Subcommittee held a hearing to explore the adequacy of information disclosed or available to consumers of life insurance. What we learned deeply concerns me. I am writing to urge the NAIC to take immediate action on these serious matters.

Our oversight work has made clear that life insurance companies do not provide certain fundamental facts that consumers need in order to make informed decisions. It is equally clear that state insurance regulations do not require that the companies provide that information. First, buyers of life insurance are not being provided essential pricing information that would allow them to understand fully the cost of the policy they are considering or to compare similar policies. Second, prospective buyers are being misled about the projected future values of the policies they are considering. Third, without clear, accurate knowledge about their policies' cost or value, policyholders are being easily convinced to cancel policies in which they have accumulated cash value in order to purchase new, less advantageous products. These problems are particularly apparent in whole life and other permanent and blended products, which offer inside build-up on so-called savings or investment portions of premiums.

In our oversight hearings the subcommittee evaluated policies of five major companies. We learned that prospective buyers of these policies are not given a clear and accurate breakdown of policy-related administrative charges and other expenses they are forced to pay. Let me give some examples.

A prospective policyholder cannot calculate what will be left for savings or have a realistic expectation of the growth of the savings or have a realistic expectation of the growth of the savings portion because there is no reliable accounting of how premiums will be allocated for administrative charges and death benefits. One type of expense that goes unmentioned is the size of agent commissions which are between 55% and 105% of the first few years' premiums. Another is that prospective policyholders cannot determine a policy's actual cash value at cancellation because surrender charges are not clearly indicated. Furthermore, excessive administrative charges and mortality expenses are often refunded to the policyholder as dividends or reflected as reductions of premium. But, if a policyholder does not know what those charges or expenses are, he or she has no means to detect misleading information about vanishing, reducing or level premiums.

Our oversight also shows that individual policies are being designed and manipulated by computer-generated sales illustrations to contemplate many scenarios which are not realistic. Prospective buyers do not understand that projections of non-guaranteed elements are unlikely. The subcommittee has received testimony that less than 10% of policies bought in the 1980s will perform as illustrated. One witness testified that 15 of the largest 20 insurance companies operating in his state of Illinois had reported to regulators that they could not sustain, for even two years, the projected interest rate assumptions they were using in their illustration.

Overwhelming numbers of life insurance buyers do not even understand which, if any, elements of their sales illustrations are guaranteed. For instance, as we demonstrated in our hearing, an Alexander Hamilton illustration did not make it clear that there was no guaranteed death benefit after 12 years.

Another witness testified about his family's dilemma which came out of a misleading sales illustration. He said that in 1984, his family purchased a \$3 million joint whole life policy on his parents from Crown Life of Canada, relying on an illustration which said that the policy would be fully paid within six years and would always have a face value of at least \$3 million. They were not advised that the policy performance was conditional on a continued high dividend rate. Although they believed they had complied with the agreement, they were dismayed to learn recently that unless they pay \$92,000 a year for the next four years and \$22,000 a year thereafter, the policy would decline in value and perhaps lapse altogether. Since our hearing, we have received hundreds of calls and letters from similarly affected consumers.

Last, our oversight indicates that many policyholders are being encouraged, often against their best short- and long-term interests, to replace existing policies without sufficient information with which to compare their current policy to the replacing policy. One hearing witness testified that fewer than one in 10 of the replacement policies sold in recent years was marketed with the intent of upgrading benefits to the policyholders. Agents and companies sell replacement policies and collect up-front commissions and administrative costs from the cash value in the original policies. Neither insurance companies nor selling agents demonstrate to buyers how many years a replacing policy must be kept before lost assets can be restored.

I am also concerned that buyers of life insurance have no way to learn how many of their premium dollars, allocated to administrative charges, are being spent on salaries, benefits and retirement packages for the companies' top executives. Forty-nine states do not require companies to file compensation information with the regulators. Mutual company shareholders have nowhere they can seek information from stock companies, who can inquire of the SEC, are only slightly better off in this respect. (sic)

I am alarmed by the paucity of meaningful information available to consumers. I urge you and the appropriate NAIC task forces to create and pass model regulations that would protect consumers by assuring they have the ability to make informed life insurance purchases. The subcommittee will continue to monitor and evaluate the adequacy of information available to consumers of insurance. It is imperative that state insurance commissioners actively regulate and supervise the information given to consumers.

We look forward to working with you in a mutually constructive manner.

Very sincerely yours,

Howard M. Metzenbaum, Chairman
Subcommittee on Antitrust,
Monopolies and Business Rights
Committee on the Judiciary
United States Senate

ATTACHMENT FOUR-E

TO: Hon. Mike Weaver, Chair of the Life Insurance (A) Committee
FROM: Carole Olson Gates, NAIC Director of Health Policy, Market Conduct & Consumer Affairs
DATE: September 14, 1992
RE: Amendment to the Long-Term Care Insurance Model Regulation Regarding Life Insurance Policies with Long-Term Care Riders

Attached is an amendment proposed by the NAIC Long-Term Care Insurance (B) Task Force, which the task force would like to forward to the Life Insurance (A) Committee for review and comment. In particular, the task force is interested in knowing whether the disclosure amendment as drafted is appropriate and workable for life insurance policies that contain long-term care riders.

The Long-Term Care Insurance (B) Task Force plans to adopt disclosures for all other products at this time, but will await the committee's comment on adopting the life insurance component of that disclosure piece. Attached is the amendment for the committee's review.