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February 5, 2001

Ms. Carolyn Johnson  
National Association of  
Insurance Commissioners  
2301 McGee Street  
Suite 800  
Kansas City, Missouri 64108-2604

Re: Comments on Draft Life Insurance and Annuities Suitability Model Regulation

Dear Ms. Johnson:

The American Bankers Association Insurance Association and the Association of Banks in Insurance offer the following comments with respect to the draft proposal of the National Association of Insurance Commissioners ("NAIC") to regulate the suitability of recommendations of insurers and producers pertaining to the sale of life insurance and annuities. Since the scope of the proposal includes life insurance products and annuities, the proposal would cover credit life insurance. We ask the NAIC to exempt credit life insurance products from the proposal. Unlike other types of life insurance products and annuities, the standard of "suitability" is less applicable to the purchase of credit life insurance. Furthermore, there is already sufficient regulation of credit insurance.

Credit life insurance is offered to individuals only in connection with a credit transaction. The purchase of credit life insurance is optional, being left to the sole discretion of an individual borrower after a loan is approved. In a credit transaction there is no need to compare the values, benefits and costs of credit life insurance policies with respect to the credit transaction. While some might argue that other forms of insurance such as term life insurance might serve the borrower better than credit life insurance, that is a decision the borrower should make -- not the lender. The lender is not able to coerce a borrower to purchase credit life insurance and is usually not in a position to offer other alternatives to the borrower in connection with a loan transaction. Therefore, we see no benefit in having credit life insurance producers attempt to apply the elusive concept of suitability with respect to life insurance having a small face amount offered in connection with a loan.

Some people may question whether credit life insurance is a good value or whether the rates of return are excessive, but credit life insurance is regulated by every state and is subject to statutes enacted by state legislatures in every jurisdiction. All of

the forms and rates are submitted to and approved by insurance departments in every state. Therefore, those issues are irrelevant in a discussion of suitability. Indeed, suitability usually refers to sales practices that are driven by customer needs and objectives. This concept does not apply to credit life insurance, because the loan transaction to which the insurance product is related commonly creates the need for (and, consequently, the “suitability” of) the insurance product. It is also beyond the scope of the loan officer’s duties to develop the type of information that would be required for a suitability determination when simply making a loan. The test of such a suitability review is also inappropriate in light of the small amount of coverage usually being obtained.

Moreover, in addition to state regulation of credit life insurance, under the Federal Reserve Board’s Regulation Z (12 C.F.R. Part 226), customers are given the choice in writing to purchase or not purchase credit related insurance. In fact, under Regulation Z, credit insurance is specifically excluded from the cost of loans in determining the annual percentage rate.

Accordingly, we ask that the NAIC exclude credit life insurance from the coverage of the draft model regulation.

Sincerely,

McINTYRE LAW FIRM, PLLC

[signed in original]

James T. McIntyre  
Counsel to:

The American Bankers Association  
Insurance Association and

The Association of Banks in Insurance