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October 20, 2009

The Honorable David A. Paterson  
Governor  
State Capitol  
Albany, NY 12224

Dear Governor Paterson:

As a unified voice of life insurance agents who practice in and serve the residents of New York, NAIFA-NYS\*, NAIFA\*, and AALU\* request your assistance and an opportunity to meet with you about NYSID Proposed Regulation No.194, Producer Compensation Transparency.

This letter and meeting request follow up on meetings we have had with the New York State Department of Insurance, the Office of the Attorney General, the Governor's Office of Regulatory Reform, and Counsel to the Governor.

We understand that this matter has your personal attention. We urge you to remove non-group life insurance products from the scope of the proposed regulation, or, if included, provide that required disclosure will consist only of notification to customers that producers represent insurers in selling insurance and receive compensation based on sales. We make this request for the following reasons:

1. The proposed regulation emerged from past problems on bid-rigging and steering in the property casualty arena and no problems have been alleged in the non-group life insurance product marketplace.
2. If a steering problem were to emerge, the proposed regulation would do nothing to address it.
3. The proposed regulation would provide no benefit to consumers, but would decrease sales, decrease financial protection, increase unemployment, hurt the state economy, and increase the burden on state government programs.

1. No Problem in Non-Group Life Insurance Product Sales:

In nearly eighteen months since hearings were first held, there has been no allegation or findings that there is any problem of steering or any other abuse in the non-group life insurance product marketplace. We have no opinion whether it is appropriate to broaden regulatory oversight to all property-casualty producers, from the specific restrictions imposed on several PC carriers or firms in the aftermath of bid-rigging issues in the PC arena in 2004.

## 2. If Future Steering Were to Emerge in this Marketplace, the Proposed Regulation Would Not Address It:

Requiring producers who are asked by customers to provide the amount of their compensation for the product recommended and alternatives considered would not be a deterrent to bad actors who could simply recommend and consider only products which pay the highest compensation.

## 3. The Proposed Regulation Would Not Provide a Benefit to Consumers, Would Decrease Sales, Decrease Financial Protection, Increase Unemployment, Hurt the State Economy, and Increase the Burden on State Government Programs:

The chief problem with proposed regulation 194 is that it would require producers to “prompt” customers to request specific information about the producers’ compensation. This would not help customers because New York state law strictly regulates the amount of agent compensation, and the price for a given product to customers is the same, whether customers receive no service or very extensive service from agents.

The prominent focus on producer compensation would create another barrier to an already extremely difficult job—getting customers to focus on meeting their financial needs related to death or retirement and make sacrifices by setting aside money to address these needs, rather than spending it. The specific harmful results the proposed regulation would have are outlined below.

### **HARMFUL IMPACT OF PROPOSED REGULATION**

- There would be a drop in coverage and fewer New Yorkers would be prepared for their financial needs due to death or retirement.
- Reductions in life insurance product sales would lead to greater unemployment because of job loss among the current 85,000 New Yorkers employed by the life insurance industry.
- The life insurance field force would also shrink. New agents particularly would have difficulty overcoming concerns brought on by “prompts” of producer compensation disclosure. To lessen the negative impact, commissions would be spread over a longer period of time, making it harder for new agents to survive the first few years in the business.
- Fewer producers would necessarily lead to decreased financial protection and service to middle and lower income New York residents because remaining agents would focus on more affluent customers.
- The decrease in life insurance sales, loss of jobs, declining size of the life insurance field force, and increase in New Yorkers without financial protection will hurt the state economy and further burden state entitlement and other programs.

In summary, the proposed regulation would solve no existing problem, would not provide any meaningful benefit to customers, but instead would reduce financial protection, increase unemployment, and hurt the economy.

It is critical that you remove non-group life insurance products from the scope of the proposed regulation, or, if included, provide that required disclosure will consist only of notification to customers that producers represent insurers in selling insurance and receive compensation based on sales. We will follow up with you soon regarding a face-to-face meeting on this issue.

Sincerely,



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David J. Reedy, CLU  
NAIFA-NYS President



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Thomas D. Currey, CLU, ChFC, LUTCF  
NAIFA President



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Robert R. Carter, CLU, ChFC  
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cc: Mark Yavornitzki  
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\***NAIFA** comprises more than 700 state and local associations representing the interests of approximately 200,000 agents and their associates nationwide. NAIFA members focus their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. The Association's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members. Visit NAIFA's website at [www.naifa.org](http://www.naifa.org).

\***AALU** is a professional trade association representing 2,000 life insurance agents and professionals nationwide, who have significant expertise and are industry leaders in helping individuals and businesses utilize life insurance in estate planning, charitable planning, business continuation planning, retirement planning, deferred compensation and employee benefit planning. The mission of AALU is to promote, preserve and protect advanced life insurance planning for the benefit of its members, their clients, the industry and the general public. AALU's website can be accessed at [www.aalu.org](http://www.aalu.org).