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BULLETIN NO. 10-14

TO: **ALL LIFE INSURANCE COMPANIES TRANSACTING BUSINESS IN NEW JERSEY**

FROM: **THOMAS B. CONSIDINE, COMMISSIONER**

RE: **STRANGER ORIGINATED ANNUITIES (STOAs)**

Fixed and variable annuities are vital long term insurance products largely intended to protect individuals from the financial risks associated with longevity - - running out of money saved for retirement. As such, these products offer many valuable guaranteed benefits, including minimum lifetime income guarantees. Variable annuities also provide guaranteed death benefits at relatively low prices. The low price is achievable, in part, because variable annuities have historically attracted healthy individuals (i.e., those least likely to be motivated by an ancillary minimum death benefit guarantee).

However, in the case of Stranger Originated Annuities (STOAs), an insurance producer and/or “investor” may offer a stranger a fee for the use of their identity as the measuring life, or annuitant, in the variable annuity. Consumers who are terminally ill or in extremely poor health are targeted for such transactions, and the annuities are, in effect, being used as a wagering contract that pays off on the death of the vulnerable annuitant.

These schemes may go undetected because the producers/investors take deliberate steps to ensure that the dollar amount of annuity premium falls below the insurer’s underwriting guidelines. Often, a trust or organization is named as beneficiary of the death benefit in order to hide the identity of the beneficiary. STOAs hurt contractholders and insurers because the wagering profits realized by the producers/investors will eventually be passed on to other contractholders in the form of higher annuity fees and/or weaker guarantees. These and other similar schemes should be void as a matter of public policy, and the Department is encouraging companies to take a proactive stance in helping to eliminate them.

The Department believes that insurers currently have the ability to eliminate STOAs without the need for any new legislation or regulations. P.L. 2008, Chapter 88 (codified at N.J.S.A. 17B:25-34 et seq.), effective April 1, 2009, requires individuals selling individual annuities to make reasonable efforts to obtain and record information about the suitability of the product for the solicited consumer and the consumer's acknowledgement of the information recorded. The Unfair Trade Practices Act at N.J.S.A. 17:29B-1 et seq. prohibits any person from engaging in unfair or deceptive acts or practices in the business of insurance. The New Jersey Insurance Fraud Prevention Act at N.J.S.A. 17:33A-1 et seq., allows for the imposition of both civil and criminal penalties in legal actions for insurance fraud violations commenced by the New Jersey Insurance Fraud Prosecutor's Office established pursuant to N.J.S.A. 17:33A-16.

The Department recommends that companies strengthen their monitoring practices to more easily detect STOA transactions and aggressively report suspected STOA transactions. In addition to stepping up existing monitoring practices, the Department also suggests that companies consider the following:

° Asking applicants and/or producers "targeted" questions, e.g., the purpose of the purchase, the relationship between agent/broker and annuitant, the health status of the annuitant, the source of funds for premium payments, and whether an insurable interest exists between the owner of the annuity and the annuitant;

° Closely monitoring contract deposits and, when appropriate, follow up with calls to annuitants and contract owners;

° Redesigning variable annuity contracts, e.g., no guaranteed minimum death benefit (GMDB) during the first two years, bolster the contestability clause; and

° Reporting suspected transactions to the Department's Office of Consumer Protection Services.

Questions regarding this Bulletin should be addressed to the Department's Life & Health Division at 609-292-5427 or via e-mail to neil.vance@dobi.state.nj.us.

July 2, 2010
Date

Thomas B. Considine, Commissioner

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