

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF CONSUMER PROTECTION SERVICES

Limitations on the Use of Specific Terms or Designations in the Sale of Life Insurance

Adopted New Rules: N.J.A.C. 11:4-60

Proposed: October 4, 2010 at 42 N.J.R. 2306(a).

Adopted: February 10, 2011 by Douglas A. Wheeler, Director, Division of Insurance.

Filed: February 10, 2011 as R. 2011 d. 088, **with a substantive change** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17B:30-4 and 17B:30-15.

Effective Date: March 7, 2011.

Expiration Date: March 14, 2011.

Summary of Public Comment and Agency Response:

The Department of Banking and Insurance (Department) timely received a written comment from the America Council of Life Insurers.

COMMENT: The commenter supported the adoption of the proposed rule but suggested that the following language be deleted as the commenter believed that such language would be more appropriate when applied to annuities, rather than life insurance.

First, the commenter suggested that the definition of “direct-response solicitation” be deleted as the term is not used in the rules.

Secondly, the commenter suggested that the phrase “or its value or suitability” in N.J.A.C. 11:4-60.3(a) also be deleted. The commenter stated that this phrase does not apply to

life insurance. The commenter stated that suitability is a term of art that is mainly used with respect to annuity products. The commenter believed that, in order to avoid any confusion, this phrase should be deleted.

RESPONSE: The Department appreciates the support of its proposal. With respect to the suggested deletion of the definition of “direct-response solicitation,” the Department agrees and has made this change upon adoption. As the Department noted in the proposal Summary, and as recognized by the commenter in its comment, the rules essentially track the statute governing solicitation of annuities at N.J.S.A. 17B:25-36. In addition, as was noted by the commenter, the term is not used in the rule, and thus is unnecessary. Accordingly, it is appropriate to delete this definition to avoid any confusion.

With respect to the suggested deletion of “or its value or suitability” in N.J.A.C. 11:4-60.3(a), the Department has determined that no change is required because references to “value or suitability” might be made in the solicitation or the sale of life insurance. In any event, retaining the phrase in the rule does not add any new requirement or restriction, insofar as the rule prohibits the use of false, misleading or deceptive designations or advertising regarding the qualifications of persons or entities engaged in the sale, solicitation or negotiation of life insurance.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules are not subject to any Federal requirements or standards.

Full text of the adopted new rules follows (deletion from proposal indicated in brackets with asterisk *[thus]*):

11:4-60.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

. . .

[“Direct-response solicitation” means a solicitation solely through mail, telephone, the Internet, or other mass communication media.]

. . .