STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Bulletin L-12

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To: ALL INSURANCE COMPANIES LICENSED TO SELL VARIABLE INSURANCE PRODUCTS

RE: LICENSING REQUIREMENTS FOR PRODUCERS MARKETING UNREGISTERED GROUP VARIABLE ANNUITIES

The Insurance Department has received numerous inquiries concerning whether insurance producers marketing group variable annuities supported by a separate account not subject to registration under the securities laws are required to hold a Connecticut insurance producer license with variable authority. The purpose of this Bulletin is to clarify that any insurer's representative marketing such products or any other variable insurance product must be duly licensed and hold a producer's license with variable authority.

In order to obtain variable products authority under the insurance laws of our state, individuals applying for a producer's license are required to provide, among other things, evidence that they are qualified and competent to act as licensees with respect to variable life insurance or variable annuity products. The Department has determined that a passing grade in a Series 6 or 7 exam and in a life exam constitutes proper evidence that an individual possesses the requisite knowledge and competence to market variable products. Additionally, because the Insurance Department is not charged with authority to administer the securities laws, and may lack the necessary expertise to properly evaluate whether an applicant's business and conduct with regards to the marketing of securities products conforms with required standards for such products, licensees must further prove their competency by providing evidence that they are duly registered with the federal agencies charged with the duty of regulating securities. Finally, licensees must prove that they will be subject to adequate supervision by competent entities or individuals and, therefore, are required to be affiliated with a broker-dealer.

Some insurance companies continue to market in our state group variable annuity contracts ("Group Variable Annuities") supported by an unregistered separate account. Such contracts, offered mostly to tax qualified plans, provide a level of benefits that reflects the investment performance of such separate account either prior to the time benefit payments are made, or after the time benefit payments are made, or both. Under the Securities Exchange Act of 1934 any person, notwithstanding that such person may be acting as a broker or dealer, whose business is limited solely to transactions in

exempted securities, defined as any security arising out of a "contract issued by an insurance company, which interest, participation, or security is issued in connection with a qualified plan", is exempted from registration with the Securities and Exchange Commission.

Because the Group Variable Annuities are issued by an insurance company in conjunction with a qualified plan, defined as a stock bonus, pension, or profit sharing plan which meets the requirements for qualification under Section 401 of the Internal Revenue Code, the separate account that supports such annuities falls within the definition of "exempt security" contained in Section 3(a)(12)(A) of the Securities Exchange Act of 1934 and, consequently, individuals who market them are not required under the securities laws to be registered as broker-dealers or to be associated with a broker-dealer. Additionally, under securities laws, because such representatives are not required to be registered, they do not need to take the NASD series 6 or 7 exam.

The fact that the above referenced exception from registration under the securities laws applies to representatives marketing Group Variable Annuities has led some insurance companies to believe that such representatives would be also exempted under Connecticut insurance laws from the requirement of holding a producer's license with variable products authority. On the contrary, notwithstanding that these marketing representatives are not required by federal securities laws to be registered, the Insurance Department must be satisfied that they possess the necessary qualifications to market variable annuities in our state. At the present time, lacking any other proven method by which the Department may ascertain and evaluate a person's qualifications to conduct a business involving the marketing of variable products in our state, in order to maintain a level of protection to which our citizens are entitled, all marketing representatives who sell, solicit or negotiate any variable insurance products, including Group Variable Annuities, must be licensed for the line of variable products, regardless of whether the product's underlying securities are considered "exempt securities" within the meaning of federal securities laws. Consequently, in addition to fulfilling all other licensing requirements, all such marketing representatives are required to pass a life exam, a Series 6 or 7 exam, and must be affiliated with a broker-dealer.

Susan F. Cogswell

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