

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS  
AND PROFESSIONAL REGISTRATION  
Division 400—Life, Annuities and Health  
Chapter 5—Advertising and Material Disclosures**

**PROPOSED RULE**

**20 CSR 400-5.305 Scope and Definitions for Military Sales Practices Regulation.**

*PURPOSE: This rule sets out the scope of the military sales practices regulation in 20 CSR 400-5.305 to 20 CSR 400-5.310 and provides definitions to aid in the interpretation of the rules.*

**(1) Applicability of Rules.** The rules in 20 CSR 400-5.305 to 20 CSR 400-5.310 are based upon the Military Sales Practices Model Regulation adopted by the National Association of Insurance Commissioners (NAIC), published July 2007, fulfilling the intent of the Military Personnel Financial Services Act, Pub. L. No. 109-290, §3(1)(C) (2006).

**(A)** The rules in 20 CSR 400-5.305 to 20 CSR 400-5.310 apply to insurers soliciting, offering to sell or selling any life or annuity product, except those described in subsection (B), to a member of the United States Armed Forces, wherever located. The rules shall be read together with chapter 536, RSMo.

**(B)** The rules in 20 CSR 400-5.305 to 20 CSR 400-5.310 shall not apply to solicitations or sales involving:

1. Credit insurance;
2. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
3. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;
4. Individual stand-alone health policies, including disability income policies;
5. Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 *et seq.*;
6. Life insurance contracts offered through or by a non-profit military association, qualifying under section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or
7. Contracts used to fund:
  - (a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
  - (b) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer and there is no in-person, face-to-face solicitation of individuals by an insurance producer;
  - (c) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, if there is no in-person, face-to-face solicitation of individuals by an insurance producer;
  - (d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

- (e) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
- (f) Prearranged funeral contracts.

(C) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS or successor directive.

(2) Definitions. As used in Rules 20 CSR 400-5.305 to 20 CSR 400-5.310 the following terms shall mean:

(A) “Active Duty”, full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days;

(B) “Department of Defense (DoD) Personnel”, all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense;

(C) “Door to Door”, a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment;

(D) “General Advertisement”, an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer;

(E) “Insurable needs”, the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents;

(F) “Insurer”, an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities;

(G) “Insurance producer”, a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities;

(H) “Known” or “Knowingly”, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

(1) is a service member; or

(2) is a service member with a pay grade of E-4 or below;

(I) “Life Insurance”, insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities;

(J) “Military Installation”, any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters;

(K) “MyPay”, a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms;

(L) “Other military survivor benefits”, includes the following, but is not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits;

(M) “Service Member”, any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces;

(N) “SGLI”, Servicemembers' Group Life Insurance;

**(O) “Side Fund”, a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:**

**(1) accumulated value or cash value or secondary guarantees provided by a universal life policy;**  
**(2) cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or**

**(3) a premium deposit fund which:**

**A. contains only premiums paid in advance which accumulate at interest;**

**B. imposes no penalty for withdrawal;**

**C. does not permit funding beyond future required premiums;**

**D. is not marketed or intended as an investment; and**

**E. does not carry a commission, either paid or calculated;**

**(P) “Specific Appointment”, a prearranged appointment agreed upon by both parties and definite as to place and time;**

**(Q) “United States Armed Forces”, all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard; and**

**(R) “VGLI”, Veterans’ Group Life Insurance.**

*AUTHORITY: sections 374.045, RSMo (2000), 375.144 RSMo (Cum. Supp. 2006), 375.934, RSMo (2000) and 375.936, RSMo (2000).*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 22, 2007 at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on January 22, 2007. Written statements shall be sent to Mary S. Erickson, Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five working days prior to the hearing.*