LIFE INSURANCE SETTLEMENT ASSOCIATION

March 26, 2007

Re: Comments on Individual Term Life Insurance Policy Standards
and Conforming Amendments to Adjustable Life Policy Standards

To the Management Committee:

On behalf of the Life Insurance Settlement Association (LISA), thank you for the opportunity to comment on the proposed Individual Term Life Policy Standards and the conforming amendments to the various Adjustable Life Policy Standards promulgated by the Commission on December 8, 2006 (together, collectively, the "Standards"). These Standards were recommended by the Product Standards Committee after careful consideration and debate, and they contain important and necessary pro-consumer provisions that are aimed at protecting the property rights of policy owners. **We strongly urge you resist efforts to remove these consumer protections.**

The consumer protections, found primarily in the Assignment, Beneficiary and Ownership provisions of the Standards, do two extremely important things:

- First, *the Standards mandate that all policies contain provisions that allow the policy owner to assign the policy, change the policy owner and/or change the policy beneficiary*, except where restrictions are required to comply with applicable federal laws and/or for tax qualification purposes.

**The ability to assign or sell a life insurance policy is a fundamental property right that has been recognized by the courts for over a century.** The revised Standards will preserve this property right and ensure that consumers can realize the full value created in their policies through their premium payments without unnecessary interference from insurers.

- Second, *the Standards prohibit insurers from conditioning the owner's right to assign the policy or change the owner of the policy upon the owner's prior receipt of an offer from the company to purchase the policy*. This change was implemented because, in response to the growing popularity of the secondary market for life insurance among consumers, some insurers have begun requiring a right of first refusal or similar contractual condition in connection with a sale or transfer of the policy by the consumer.

**Rights of first refusal in life insurance contracts are impediments to consumer choice which reduce the value of policy owners' property.** The Product Standards Committee explained that it revised the Standards to prohibit the inclusion of a right of first refusal in a policy "*because such a provision could have the effect of preventing or unreasonably delaying the transfer of ownership*."[1]

LISA agrees with this statement and points out that rights of first refusal also have the effect of artificially suppressing policy value in the open market. True competition, which is necessary to ensure that sellers of life insurance policies receive the highest price, requires that all willing buyers be on equal footing with regard to bidding on any valuable property that is subject to auction. Rights of first refusal lower purchase prices by preventing all but one bidder from fully competing.[2] Moreover, insurance companies should not be allowed to impose rights of first refusal on individual life insurance consumers who lack the knowledge or bargaining power to reject such restrictions.

The pro-consumer Standards recommended by the Product Standards Committee will ensure that policy owners can realize the full value of their policies without resistance from interested parties who oppose the growth of the secondary market. We urge the Management Committee to resist efforts to water down these essential provisions, which preserve existing rights of policy owners to exercise basic property rights in their policies. Anything less would represent a step backwards for consumers following the thoughtful choices made by the Product Standards Committee in its drafting to date.

Sincerely,

LISA Executive Director

[1] *See* Memo from the Product Standards Committee to the Management Committee, dated January 19, 2007 (emphasis added).

[2] *See, e.g., Rethinking Rights of Refusal*, David I. Walker, 5 Stan. J.L. Bus. & Fin. 1, 5 (1999) ("Rights of first refusal discourage potentially high-valuing third-party bidders from entering a contest to purchase, and thus the instrument reduces a seller's expected realization.").