

May 14, 2007

Re: Comments on Proposed Individual Life Insurance 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 Uniform Standards.¹ Because the Uniform Standards were issued at various stages in the development process, there is some ambiguity regarding what language is currently being considered by the Management Committee.

Accordingly, we respectfully urge the Management Committee to apply the most recent recommendations (the "Recommendations") of the Product Standards Committee to *each* of the Uniform Standards, regardless of when the individual Uniform Standard was issued or promulgated.² The Recommendations contain important and necessary pro-consumer protections, and LISA supports the implementation of the Recommendations.

The Recommendations preserve the fundamental property right of life insurance policyowners to transfer or assign their policies and/or change the policy beneficiaries. This ensures that consumers can realize the full value created in their policies through their premium payments without resistance from insurers who oppose the growth of the secondary market.

In addition, the Recommendations include a drafting note which makes it clear that anti-competitive restrictions on the assignment or transfer of a policy, such as a right of first refusal or first offer, are prohibited. The Product Standards Committee believes that such a prohibition is covered by the revised language of Item (1) of the provisions (see below), but a drafting note clarifies this point "*without unintentionally limiting the circumstances to which the prohibition in Item (1) would apply in the future.*"³ We note that the Industry Advisory Committee has also stated that a prohibition against rights of first refusal would be covered by the language in revised Item (1).⁴

Pursuant to the Recommendations, the Assignment, Beneficiary and Ownership provisions in each of the Uniform Standards would be revised to read:

¹ "Uniform Standards" means each of the policy standards issued by the Management Committee on January 24, March 1, March 14 and March 15, 2007, respectively, as well as each of the adjustable life policy standards promulgated by the Commission on December 8, 2006.

² The Recommendations are contained in a memorandum from the Product Standards Committee to the Management Committee, dated April 20, 2007.

³ *See id.* at p.3.

⁴ *See* Memo from Industry Advisory Committee to Product Standards Committee, dated April 13, 2007.

ASSIGNMENT

- (1) The policy shall contain an assignment provision. The policy shall not include any restrictions on the availability of assignments, except in situations where restrictions are required for purposes of satisfying applicable laws or regulations.
- (2) The policy shall describe procedures for assignments and shall state that assignments, unless otherwise specified by the owner, shall take effect on the date the notice of assignment is signed by the owner, subject to any payments made or actions taken by the company prior to receipt of this notice.
- (3) The policy may state that the company shall not be liable for the validity of the assignment.

Drafting Note: Restrictions on assignment in policy forms such as right of first refusal or first offer provisions are prohibited by Item (1).

BENEFICIARY

- (1) The policy shall contain a beneficiary provision. The provision shall describe the procedures for designating or changing the beneficiaries, or for selecting default beneficiaries as may be necessary, and indicating when such designation is effective. The policy shall not include any restriction on change of beneficiary other than for purposes of satisfying applicable laws or regulations.
- (2) The policy shall state that changes in beneficiary, unless otherwise specified by the owner, shall take effect on the date the notice of change is signed by the owner, subject to any payments made or actions taken by the company prior to receipt of this notice.
- (3) If irrevocable beneficiaries are referenced in the policy, the policy shall explain that such a beneficiary cannot be changed without the consent of the irrevocable beneficiary.

OWNERSHIP

- (1) The policy shall contain an ownership provision. The provision shall describe the procedures for designating or changing the owner and indicating when the designation is effective. The policy shall not include any restriction on change of owner other than for purposes of satisfying applicable laws or regulations.
- (2) The policy shall state that changes in owner designation, unless otherwise specified by the owner, shall take effect on the date the notice of change is signed by the owner, subject to any payments made or actions taken by the company prior to receipt of this notice.
- (3) The policy shall describe how contingent owner and joint owner provision operate, if being made available.

Drafting Note: Restrictions on change of owner in policy forms such as right of first refusal or first offer provisions are prohibited by Item (1).

The Recommendations promote and protect the interests of consumers by ensuring that policyowners can exercise basic property rights in their policies without having to confront policy provisions which could prevent or unreasonably delay the transfer of ownership.

We urge the Management Committee to continue to take the lead on this important consumer issue and incorporate the Recommendations of the Product Standards Committee into the Uniform Standards. 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,

A handwritten signature in black ink, appearing to read "Greg Heaf". The signature is written in a cursive style with a large initial "G".

Executive Director
Life Insurance Settlement Association