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To: All Insurance Companies Writing Life and Annuities in the State of Iowa
From: Nick Gerhart, Iowa Insurance Commissioner
RE: Insurance Marketing Organizations
Date: September 15, 2014

The Iowa Insurance Division (the Division) has observed an increase in misleading advertising by producers and insurance marketing organizations (IMOs) under contract with insurance companies.

IMOs may also be labeled as independent marketing organizations, financial marketing organizations, or national marketing organizations. These third-party agents between independent licensed insurance producers and insurance company home offices may provide reduced cost for product manufacturing and distribution.

The Division has observed that some IMOs are aggressively promoting indexed annuities in potentially deceptive manners.

First, IMOs are emphasizing high-interest lifetime withdrawal benefit riders. Some of the advertising claim the withdrawal benefit rider has an annual rate of return, *e.g.*, “client earns 8%.” This statement is misleading if the consumer is not equally informed of the restrictions imposed by the rider.

Second, the Division reviewed advertisements on annuity products in which the advertisements offer “uncapped” rates of return. While much of the observed advertising purports to be targeted to insurance producers, if the advertising is viewed by a consumer, it has the capacity to contribute to inflated consumer expectations of future performance of the annuity product. These expectations are likely to be inflated indirectly through subsequent and related representations made by producers reiterating the advertisements’ claims although, in reality, the referenced rate is actually limited by spreads, participation rates, or the design of volatility controls, significantly reducing the actual return. The use of “uncapped” terminology without additional disclosures of limitations is misleading. Consumers should be informed how the limitations of the “uncapped” strategy lower future projected interest credits.

Third, the Division has received marketing materials that select a random point in time and back-cast the index against a period of time when the market experienced tremendous growth. Specifically, the Division reviewed charts highlighting hypothetical index performances during the years of 1990 through 2000, when stock market indices performed extremely well and rates of return were high. The back-casted index used in the advertising may not have been in existence during that time. The use of these hypothetical indices increases the likelihood that a consumer may not understand how the crediting method or index may work in future years, and also increases consumer expectations of future interest credits.

Similarly, some marketing materials depict charts of recently developed “proprietary indices,” which did not exist during the illustrated time frame, but are back-casted and hypothetically demonstrate how they

would have outperformed traditional indices. The Division has also reviewed other marketing materials which depict more traditional indices that were not available in indexed products during the referenced time frame, but the advertisements' use of back-casting implies that they too present better performance than those products that were available during that time. Using these hypothetical performance charts is misleading if they, directly, or indirectly through subsequent representations by producers, are used to project future performance and contribute to inflated consumer expectations.

Any person presenting advertising that uses any of the methods described in this Bulletin without effectively communicating the conditions, limitations and restrictions on those returns with equal prominence, is using an unfair and deceptive practice. If used without explaining the limitations, these statements violate Iowa Code Section 507B.4, subjecting the IMO, and any insurance company or producer that relies on, or is aware of, the use of the advertisements, to administrative action and penalties.

Insurers are reminded that they are responsible for any of these misleading practices by IMOs, related to the insurers' products.

For questions or clarifications with regard to this Bulletin, please contact Doug Ommen at doug.ommen@iid.iowa.gov.