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## **NAIFA to SEC: Reject FINRA's Proposed Changes to Forms U4 and U5**

Acting in response to a NAIFA GovAlert, over 750 NAIFA members submitted comment letters to the SEC asking the Commission not to approve certain changes that FINRA has proposed to the disclosure requirements contained in FINRA Forms U4 and U5. NAIFA also submitted extensive comments on behalf of the association to the SEC urging them to reject FINRA's revisions to the forms. Changes to FINRA rules must be approved by the SEC before they become final; FINRA has indicated that if approved by the SEC, the new disclosure rules could be made effective as soon as late May 2009.

FINRA had filed with the SEC proposed revisions to FINRA Form U4, which broker-dealer and investment adviser representatives must use to become registered in the appropriate jurisdictions and with self-regulatory organizations, and Form U5, which broker-dealers and investment advisers must use to terminate registration of an individual. If the proposed revisions are approved by the SEC, a registered person would have to report allegations of sales practice complaints made against that person as long as the person was either named

in or could be identified from the body of a lawsuit or arbitration proceeding, even if the person is not a party to the lawsuit or arbitration. Under the current reporting requirements, a registered person is not required to report allegations of sales practice violations against the registered person which are contained in the body of a lawsuit or arbitration claim, unless the registered person also has been named as a defendant or a respondent in the action.

While NAIFA strongly believes that people who engage in unscrupulous or misleading sales practices should be aggressively prosecuted and subject to appropriate and meaningful sanctions, the SEC should not allow the reputations of broker-dealer and investment advisor representatives to be irreparably damaged by unproven claims or allegations made in a lawsuit or arbitration proceeding in which the representative has not been named as a party. An additional concern with the FINRA proposal is that a named defendant or respondent in a lawsuit or arbitration proceeding has an opportunity to refute the allegations against him and “clear his name”. Someone who has not been named as a party in a lawsuit or arbitration does not have this same opportunity or ability, and any allegations made against him will likely go unanswered and unchallenged. The adoption of this “guilty before charged” standard for disclosures is patently unfair and a violation of one of the basic principles of our justice system.

To read NAIFA’s comment letter to the SEC, please click [here](#).

**NAIFA Staff Contact:** Gary Sanders, Vice President – Securities and State Government Relations, at (703) 770-8192

## Estate Tax Lines Up as High Profile, Pressing Tax Issue

With Congress just finalizing its fiscal year 2010 budget, lawmakers are beginning to think about the tax legislation they must enact before year-end. Although work on health care and insurance reform and financial institutions regulatory reform will precede focus on a tax bill, Senators and members of the House of Representatives are already thinking about the tax rules that will dominate their agendas in the upcoming months. Among the most high profile of these issues is estate tax reform.

Under current law, the estate tax will be repealed in its entirety for just one year in 2010—and then will revert to 2001 levels (\$1 million exemption, 55 percent top estate tax rate) in 2011. Very few members of Congress seem supportive of this result. Thus, some form of Congressional action on estate tax rules is widely viewed as an absolute “must” prior to the end of 2009.

Currently, there are a number of possibilities that are equally likely to emerge as “the” solution to the estate tax problem that Congress will adopt prior to year-end. They include:

- Permanent reform that reunifies the estate and gift tax, sets an exemption level of \$3.5 million (indexed) per individual (\$7 million per married couple), and a top rate of 45 percent. This is the estate tax reform proposal included in the fiscal year 2010 Congressional budget. It has considerable support in both the House and Senate, and is also the proposal favored by President Obama. However, its approval is by no means certain.
- Permanent reform that reunifies the estate and gift tax, but sets different exemption levels and top tax rates. There are a number of proposals pending. At the “low” end is a

proposal by Ways & Means Committee member Rep. Jim McDermott (D-WA) that establishes a \$2 million/individual exemption, and a top estate tax rate that varies depending on the size of the estate. [H.R.2023](#) would impose a 55 percent top rate on estates valued at more than \$10 million; a 50 percent rate for estates worth between \$5 and \$10 million; and a 45 percent rate for estates worth between \$2 million and \$5 million. At the “high” end, Sen. Jon Kyl (R-AZ) has considerable support for permanent reform that would put the top estate tax rate at 35 percent, and the personal exemption at \$5 million/person (indexed). Then there is the “in between” proposal (which is unlikely to get serious consideration): [H.R.1986](#), offered by Rep. Travis Childers (D-MS) on April 21, would set the personal exemption at \$4 million and reduce the top rate to 40 percent.

Complicating enactment of any of these proposals is the revenue issue. At best, the budget will allow for one year of estate tax reform without offsets—but that means Congress will have to find revenue raisers for years two through five, no matter what.

Estate tax reform is an expensive proposition. The leading proposal—the \$3.5 million/individual exemption and 45 percent top rate—is estimated to cost \$256 billion over 10 years. The McDermott proposal would require offsets of about \$202 billion over 10 years. The Kyl-Lincoln \$5 million exemption/35 percent top rate proposal carries an estimated revenue cost of \$341 billion over 10 years. Lawmakers may escape having to pay for the first year of estate tax reform—the budget resolution Congress is working on now allows for this if the House passes a statutory pay-go rule. If that happens, the cost of permanent estate tax reform could drop by about \$20 billion.

The revenue issue is certain to tie Congress in knots. There is no “easy” way to raise that kind of money. As a result, insiders are speculating on what might happen. Among the possibilities are such revenue offsets as draconian caps on executive and deferred compensation, repeal or modification of life insurance trust rules and income limited tax benefits. Also possible is a quirky “punt” position that would result in Congress delaying estate tax repeal until 2011, and keeping current law’s \$3.5 million/45 percent top rate in place for 2010. That could actually raise a little bit of revenue, and would put off the estate tax reform issue until Congress takes up fundamental tax reform in 2010.

The bottom line? At this stage it is virtually certain that there will be legislation on estate tax before year-end. The most likely—but by no means certain—outcome would result in a personal exemption of \$3.5 million per person (\$7 million per married couple), and a top rate of 45 percent, at least for 2010. However, there may also be some seriously adverse offsetting revenue rules that accompany estate tax reform, or delay in the final decision for another year. It is an issue that NAIFA members must watch closely and carefully, prepared to weigh in with their lawmakers as the debate gets underway.

**NAIFA Staff Contact:** [Michael Kerley](#), Senior Vice President – Federal Government Relations at (703) 770-8155 or; [Dani Kehoe](#), NAIFA Outside Counsel.

## Key Representatives Introduce LTC Bill

On April 24, several members of the Ways and Means Committee including Representatives Earl Pomeroy (D-ND), Charles Boustany (R-LA), Allyson Schwartz (D-PA) and Ginny Brown-Waite (R-FL) introduced legislation to expand access to long term care insurance products. The Long-Term Care Affordability and Security Act of 2009 ([H.R. 2096](#)) would permit long-term care insurance to be included in employer-sponsored cafeteria plans and flexible

spending accounts, enabling people to pay long-term care insurance premiums using pre-tax dollars.

Under current law, benefits such as medical insurance, disability income, life insurance, and a variety of other voluntary benefits are currently offered cafeteria plan tax treatment but long-term care insurance is not, nor can long-term care insurance be purchased through flexible spending arrangements (FSA). AHIA – NAIFA Health & Employee Benefits is an ardent supporter of legislation that would allow long-term care insurance to be offered among employer-sponsored cafeteria plans and FSAs.

A similar bill, [S. 702](#), was introduced in the Senate by Senators Charles Grassley (R-IA), Susan Collins (R-ME), John Ensign (R-NV), Lindsey Graham (R-SC), Olympia Snowe (R-ME); Amy Klobuchar (D-MN), and Blanche Lincoln (D-AR) to encourage more workers to plan for their long term care financing needs.

NAIFA whole-heartedly supports passage of legislation to provide additional incentives to purchase LTCI such as those contained in these bills.

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## **SEC Approves FINRA Revisions to Rule 2821**

In September, 2007—after more than five years of consideration and several rounds of amendments being made by FINRA-- the SEC granted final approval to FINRA Rule 2821, which imposes specific suitability, recommendation and principal review requirements in connection with the sale of variable annuities. But the “final rule” wasn’t really final just yet. Before the rule went into effect FINRA announced an indefinite delay in the August 4, 2008 effective date of several of Rule 2821’s provisions, and indicated it would be filing suggested amendments to these provisions with the SEC.

This process has now run its course and on April 15, 2009 the SEC granted final approval to FINRA’s proposed revisions to Rule 2821. These revisions do the following:  
Limit the application of the principal review requirements found in paragraph (c) of Rule 2821 only to recommended transactions. Paragraph (c) had previously required principals to treat all transactions as if they had been recommended. In recommending the change, FINRA accepted arguments made by commenters that (i) applying the rule to all transactions could force out of business firms that did not make recommendations and (ii) customers should be free to invest in the product without a broker-dealer second guessing the decision.  
Start the seven day period for principal review and approval on the day when the firm’s office of supervisory jurisdiction receives the complete application, rather than on the day the customer signs the app. FINRA concluded that this change would enable firms to conduct a more thorough review as well as resolve foreseeable delays in the review process, while still establishing a definite period for completion of the review by the principal.

During the lengthy period of consideration of Rule 2821 NAIFA had submitted extensive comments to the SEC and NASD (now FINRA) challenging the need for the rule itself as well as raising questions about specific aspects of the proposed rule, including the time period for supervisory review. Acting in response to NAIFA’s GovAlerts, NAIFA members also submitted thousands of comment letters to the SEC and NASD on this issue. As a result of the comments submitted by NAIFA and its members, the final rule represents a substantial

improvement over the rule as originally proposed. A requirement to provide a separate risk disclosure document to the customer was dropped from the final rule, and in addition to this latest change in the time period for obtaining a supervisor's review, this time period for obtaining the principal's approval was extended from the two day period contained in the initial proposal to seven days.

FINRA will announce the effective date for these latest changes within the next two months; the effective date is likely to be in the neighborhood of nine months after the date of SEC approval.

**NAIFA Staff Contact:** Gary Sanders, Vice President – Securities and State Government Relations, at (703) 770-8192

## **NAIFA, NAIFA-New York State Discuss Producer Compensation Transparency with New York Insurance Department**

As was previously reported, the New York Insurance Department is working on a revised draft of its proposed regulation on producer compensation disclosure. The initial draft would have required producers to provide purchasers descriptions of the nature and amount of compensation and a notice, which would state, among other things, that the producer "may have financial incentives to recommend certain contracts".

On April 29, 2009 NAIFA-NY State and NAIFA had a second meeting with the Department at their offices in New York city to discuss the proposal. NAIFA Trustee Robert Miller, NAIFA Senior Counsel Ron Panneton, NAIFA-NYS President J. Sadler Hayes, II and NAIFA-NYS Executive Vice President & Managing Director, Mark Yavornitzki, among others, were present at the meeting. First Deputy Superintendent, Kermitt Brooks and several other staff were present representing the Department.

Mr. Brooks confirmed that the Department intends to amend the initial draft proposal to require an initial disclosure describing the "role of the producer" in the sales process and, if producer compensation information is then specifically requested by the customer, a second disclosure would be required which disclosure should answer the customer's question in a clear and effective manner. He also stressed that the content and form of this latter disclosure would not be specifically proscribed in the final regulation. The only requirement would be that the customer's question concerning producer compensation be answered clearly. NAIFA and NAIFA-NYS indicated a willingness to support this framework in principle, but would need to see the actual wording of a revised draft before support could be given.

Mr. Brooks ended the meeting by indicating that a second draft of the Producer Compensation Transparency Regulation would be released sometime this summer and he specifically requested a "third" meeting with NAIFA and NAIFA-NYS to get our feedback and comments on this next iteration. We indicated that we would look forward to providing comments and suggestions at the next meeting.

**NAIFA Staff Contact:** [Ron Panneton](#), Senior Counsel – State Government Relations, at (703) 770-8187.

## House Committee Kicks Off 401(k) Reform Initiative

On April 21, House Education and Labor Committee chairman Rep. George Miller (D-CA) introduced [H.R.1984](#), a new 401(k) fee disclosure bill. The bill imposes new notice and disclosure requirements on providers of services to 401(k) (and other individual account defined contribution retirement) plans, and on plan sponsors. Introduced the same day was [H.R. 1988](#), a bill authored by the pension subcommittee's chairman, Rep. Rob Andrews (D-NJ). [H.R.1988](#) would restrict liability protection for employers who make investment advisors available to employees enrolled in an employer's 401(k) plan. Under the terms of the bill, employers will receive liability protection only if they pay for advisors who are independent. To be independent an advisor cannot be affiliated with the companies that provide, market or manage the investments from which plan participants may choose.

### Fee Disclosure Bill:

The Education & Labor Committee's Subcommittee on Health, Employment, Labor and Pensions held a hearing on the fee disclosure bill on April 22. [H.R.1984](#) is nearly identical to the bill ([H.R.3185](#)) the committee approved last year. [H.R.1984](#) creates two distinct sets of disclosure rules. One set of disclosure requirements relates to plan service providers' obligations to employers/plan sponsors. The other set of disclosure requirements would be imposed on employers/plan sponsors relative to their plans' participants.

First, the bill requires plan service providers to disclose to employer plan sponsors—prior to finalizing the agreement, when there's a material change, and annually—the specifics of fees charged for investment management, administration and recordkeeping, and transaction costs. The bill authorizes the Department of Labor (DOL) to require disclosure of other fees as DOL deems necessary. The charges must be shown as dollar amounts, although they may also be shown as a percentage of assets. The bill requires bundled service providers (many insurance and mutual fund companies provide bundled plan services, which include such costs as recordkeeping and administration in charges for asset management) to unbundle their charges to show specifics relative to the three required “disclosure buckets” (i.e., investment, administration and recordkeeping, and transaction costs). Under certain circumstances, reasonable estimates will be allowed. Failure to comply is punishable by a \$1000/day fine.

Secondly, the bill requires employers to disclose to their plan participants quarterly (or, for small plans, annually) information on fees charged to the participant's account. The disclosure must also include information on each investment option and its strategy and risk level, whether it is actively or passively managed, and how to get more detailed information on each investment. The employer must also provide a fee comparison chart. (DOL is to issue a model chart.) The notice can be provided electronically, although provision for paper disclosure is required for those plan participants who request it. Violations are punishable by a \$100/day/participant fine.

The bill also requires plans to offer at least one index fund, gives DOL the authority to modify fines, and specifically says it does not create new fiduciary duties. The bill would be effective one year after date of enactment.

### Investment Advice:

[H.R.1988](#), the investment advice bill, would provide “safe harbor” liability protection to employers who sponsor individual account retirement plans (e.g., 401(k) plans) when the employer/plan sponsors provide (pays for) independent investment advisors to their workers.

The bill defines “independent” as an advisor who receives no compensation (direct or indirect) from an entity that provides, markets or manages any of the investment choices from which the plan participants choose. This means that employers who make available to their employees affiliated investment advisors (those who are compensated by the entities that provide, manage or market the investment choices available to the plan participants) do not qualify for the automatic “safe harbor” liability protection that is available when the investment advisor is independent.

The bill also sets up specific standards for independent advisors as follows:

- The advisors must be registered investment advisors under the Investment Advisors Act of 1940;
- Independent advisors can be entities such as insurers, mutual fund companies, banks, etc;
- Independent advisors can be registered representatives of insurers, mutual fund companies, banks, etc, but they cannot be affiliated with and compensated by an entity that is providing, marketing or managing the investments on which advice is being offered;
- The independent advisor’s compensation must be flat dollar amount fees, or compensation based on a percentage of total plan assets or by plan participant;
- The bill allows computer model advice, but transactions resulting from advice provided via a computer model can be undertaken only at the direction of the plan participant.

[H.R. 1988](#) also requires:

- The independent advisor to provide annual (and when there’s a material change) fee disclosure to the plan sponsor;
- A written agreement between the investment advisor and the plan sponsor that specifies that the investment advisor will be a fiduciary to the plan participants and;
- Disclosure of any relationships with any other service provider from which the advisor derives any benefit.

#### **Major Law Change in H.R. 1988:**

Needless to say, [H.R.1988](#) would significantly change current law. Current law (which NAIFA worked to enact in 2006) allows employers to use affiliated investment advisors, within strict participant protection rules. Affiliated advisors are those who are compensated by entities that provide, market or manage one or more of the investments available to the plan participants.

#### **Future Prospects:**

Congressional insiders expect the Education and Labor Committee to mark up both the fee disclosure bill and the investment advice bill in the near future. However, there is considerable controversy over the investment advice issue, and over several elements of the fee disclosure bill. Plus, the Ways & Means Committee, which has jurisdiction over 401(k) plans, will almost certainly also act on these issues. Further, to date the Senate Committees with jurisdiction over the issues have shown little interest in 401(k) issues, although that could change if the House acts on either or both of these bills. Therefore, the outcome of the debate on both [H.R.1984](#) and [H.R.1988](#) is uncertain.

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## IRS Releases Draft Revenue Procedure and Sample Plan Language for 403(b) Prototype Plans

The IRS has taken a further step in implementing the formal written plan requirements it has imposed on public schools and other exempt organizations maintaining § 403(b) plans. Following up on what it promised in December 2008, the Internal Revenue Service has released for public comment a draft revenue procedure ([Announcement 2009-34](#)) containing the IRS's proposed procedures for issuing opinion letters as to the acceptability under Internal Revenue Code § 403(b) of the form of prototype plans. The IRS has also posted on its website [draft sample § 403\(b\) prototype plan language](#).

By way of background, in July 2007, the IRS issued final regulations requiring, among other things, that sponsors of § 403(b) plans must maintain written plan documents. The written plan document requirement was to have been effective on January 1, 2009, but in December 2008, the IRS said in Notice 2009-3 that it would not treat plans as failing to satisfy the requirement for the 2009 calendar year as long as a written plan is adopted by December 31, 2009, and made effective as of January 1, 2009. The draft revenue procedure and sample prototype plan language, when finalized after the comment period (which runs through June 1, 2009), are intended to help plan sponsors meet the requirements to adopt a written plan.

The written plan requirement and other rules contained in the 2007 regulations have added significant complexity to the § 403(b) plan world, but the IRS appears committed to minimizing the pain for plan vendors, plan sponsors, and plan beneficiaries. Because § 403(b) plans have for many years operated under less formal rules than other retirement plans (e.g., § 401(k) plans), IRS personnel have acknowledged candidly that the retirement plan industry might need several years to catch up with the regulations applicable to § 403(b) plans. Among the issues on which practitioners are awaiting further guidance is how to transition pre-existing § 403(b) arrangements into compliance with the new rules.

## Tax-Based Savings Recovery Plan Offered by House Republicans

The Savings Solutions Group, a group of Republican members of the U.S. House of Representatives, unveiled legislation April 22 containing a package of tax incentives aimed at rebuilding retirement, college and personal savings. The bill, H.R. [2021](#), sponsored by House Republican heavyweights including Minority Leader Rep. John Boehner (R-OH) and Ways & Means Committee ranking member Rep. Dave Camp (R-MI), reflects GOP priorities and thus may have difficulty winning support as a package in the current House political environment. Nonetheless, some of these issues will be along the fault lines of savings-related tax debates in the weeks and months to come.

Among the details of the "Savings Recovery Act" are:

- H.R. [2021](#) would temporarily (for three years) increase the catch-up contribution limits applicable to defined contribution (DC) retirement saving plans and Individual Retirement Accounts (IRAs). Allowable catch-up contributions would go from \$5000/year for DC plans and \$1000/year for IRAs to \$10,000/year for both;

- The bill would allow current law Savers Credit amounts to be contributed to section 529 college savings plans as well as to retirement savings plans;
- The Savings Recovery Act would double the Social Security earnings limit applicable to “early” Social Security retirees from \$14,160 to \$28,320. The earnings limit is the amount that determines whether a worker aged 62 to 65 can collect Social Security benefits while still working for pay. If a senior citizen earns more than the earnings limit amount, his/her Social Security benefit decreases until it is eliminated;
- For two years there would be no capital gains tax assessed on gains from newly acquired assets;
- The bill would raise the amount of capital losses allowed against ordinary income to \$10,000. The \$10,000 amount would be indexed for inflation. It would also suspend through 2011 tax liability on dividend income;
- H.R. [2021](#) would provide pension funding relief to defined benefit pension plan sponsors. Generally, the bill would double the amount of asset losses that can be “smoothed” in calculating pension contribution requirements through 2010. It would extend the amortization period for 2008 losses to nine years (up from current law’s seven years). Plans sponsors would have to pay interest on the payments not made during the relief period.

The bill is now pending before the Ways & Means Committee. GOP members of the Committee led by Rep. Camp are likely to bring the measure’s provisions up as amendments when the Committee takes up pension and/or tax legislation later this year. Work on tax/retirement savings legislation is not expected to take center stage until after Congress gets closer to completing its work on health care/insurance reform.

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## Finance Committee Outlines Potential Reform Options

The Senate Finance Committee released a list of potential policy options to its healthcare reform proposal that includes ways to change how hospitals and other providers are reimbursed under Medicare and moves the focus of care toward a more collaborative effort between doctors and hospitals.

The [52-page document](#) released on April 29 is the first of three sets of potential option papers, each covering a different topic area that members will discuss before a bipartisan Chairman’s Mark on comprehensive health care reform is developed. Each paper is intended to offer potential options for discussion and to provide an opportunity for other options to be offered and discussed. Although the first set does not address private insurance reforms, Senate Finance Committee Chair Max Baucus (D-MT) has tipped his hand on insurance reform stating his initial health reform plan will not include a public plan.

AHIA and NAIFA members have been writing and calling their Senators and Members of the House of Representatives to point out the adverse impact a public plan option would have on the quality affordable health insurance already available to over 60 percent of working Americans. Your input has had a clear impact, but continuing contacts are required, because Sen. Baucus said specifically that while he is not including a public plan option in his initial proposal, he has not entirely ruled it out. As he put it, it is not off the table, “but to the side of it.”

**NAIFA/AHIA Staff Contact:** [Diane Boyle](#), AHIA Executive Vice President, at (703) 770-8252.

## **Efforts to Stop STOLI Gain Momentum as Arkansas, Washington State and North Dakota Enact Anti-STOLI Legislation**

Arkansas, Washington State and North Dakota are the latest states to sign into law legislation designed to stop the spread of stranger-originated life insurance (STOLI). They join the 13 other states which enacted anti-STOLI laws in 2007 and 2008.

Arkansas HB 2113 and Washington SB 5195 are based on the NCOIL Life Settlements Model Act, and will help to “move the ball forward” in the states’ efforts to put a stop to STOLI. In 2007, North Dakota became the first state to enact anti-STOLI legislation when it adopted a version of the NAIC’s revised Viatical Settlements Model Statute. North Dakota HB 1284 builds on that law by adding in key provisions from the NCOIL model act to supplement the protections already in place in North Dakota.

NAIFA members were actively involved in support of the efforts to enact these laws in all three states, testifying at hearings and responding in force to grass roots appeals to contact their legislators.

For more information on STOLI, please visit the “[Latest STOLI News](#)” section of NAIFA’s webpage.

**NAIFA Staff Contact:** Gary Sanders, Vice President – Securities and State Government Relations, at (703) 770-8192.

## **MA First Year Commission Payments Delayed**

Several members have reported delays in their MA first year commission payments. The Centers for Medicare & Medicaid Services (CMS) has been slow at providing the reports to all carriers which show those enrollments qualifying for first year commissions. CMS had to create a new reporting program to generate these reports and is taking additional steps to try to ensure the reports are accurate before sending them out. On April 29, CMS released information to MA and Part D plan sponsors regarding compensation for independent agents and brokers for individuals enrolling in MA and Part D plans for the first time.

CMS is releasing reports identifying the enrollments for which agents shall be compensated at the initial rate, so that plans can adjust the compensation amount accordingly. CMS indicates that plan sponsors will receive the first compensation report identifying initial enrollments with a January 1, 2009 effective date by May 1, 2009. Subsequently, CMS will release the reports for February, March, and April as they are generated in May. According to CMS the May enrollment report and all subsequent reports will be available during the third week of each month, respectively. This process has taken longer than the agency or plans had anticipated.

AHIA continues its participation in the CMS National Medicare Education Program (NMEP) Coordinating Committee and will share our disappointment with this delay as well as other concerns during the Spring Meeting.

AHIA will maintain our conversations with CMS in order to achieve regulations that allow beneficiaries to use the professional services of licensed advisors without undue burdens. AHIA urges CMS to remember it is unrealistic to expect our senior citizens to navigate their way through the complexity of health insurance coverage (in and out of Medicare) without the guidance and expertise of a licensed, fairly compensated, professional health insurance advisor.

You may send individual comments to [regulationquestions@cms.hhs.gov](mailto:regulationquestions@cms.hhs.gov).

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## **New Mexico Becomes Latest State to Join Interstate Insurance Product Regulation Compact**

New Mexico became the 35<sup>th</sup> member of the Interstate Insurance Product Regulation Commission (the compact) on April 8, 2008 when Governor Bill Richardson signed New Mexico Senate Bill 15 into law. NAIFA – New Mexico supported the passage of this legislation and was actively involved in the process.

“Joining the Compact has been one of my top priorities, as I strongly believe New Mexico and its consumers will benefit from having access to products reviewed under detailed uniform standards with strong consumer protections — and its companies will benefit tremendously from this efficient, cost-effective filing process,” said New Mexico Insurance Superintendent Morris J. Chavez. “I appreciate the support from the legislature and Governor Richardson to enact this important Compact between the states.”

The Interstate Compact aims to improve the speed-to-market conditions for life insurance, annuity, disability income and long-term care products through the use of one regulatory body to review new insurance products. The ability to obtain approval from a single source for the sale of insurance products in multiple states gives insurers a more efficient and uniform product approval process than the multistate product review system. Faster product review benefits consumers and NAIFA members by making new protection products available sooner.

NAIFA has been a strong supporter of the Interstate Compact since helping the National Association of Insurance Commissioners (NAIC) draft the model Compact law in 2002. This support continues today as NAIFA, and its health insurance conference AHIA, are the only groups representing the agent community on the Compact Commission’s Industry Advisory Committee. NAIFA state associations across the country have also been critical proponents of Compact legislation as it’s introduced in state houses across the country. The Compact became operational in 2006 and began accepting its first product filings in 2007.

New Mexico is the second state to pass compact legislation in 2009, with Mississippi joining the compact in March. It is expected that several other states will advance legislation this year. NAIFA will continue to follow any developments and will keep members informed.

To learn more about the Interstate Compact and NAIFA's involvement, please visit [here](#).

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## **“Relationship Building” Occurs During April Congressional Recess**

To make their voices heard, NAIFA/AHIA members met face to face with their elected representatives to discuss our positions on health care reform and other NAIFA issues. Aside from district meetings, some members attended fundraisers and town hall meetings, delivered IFAPAC contributions or hosted their own fundraisers for members of Congress.

NAIFA/AHIA members delivered “the ask” to their elected representatives to: oppose a public health plan option, support the tax-free status of employer-provided health insurance, support the role of the agent/advisor in health care reform and support Health Savings Accounts. In addition, NAIFA/AHIA members questioned the benefits of government-organized health “connectors” (also referred to as “exchanges”) which have failed in the few states that implemented such programs. Members distributed AHIA's [RX for Health Care](#) booklet and the Health Care Reform issue paper to the representatives and their aides.

Here are some of comments about the meetings:

- The Congressman “knows we speak for the *agent* and we speak for *our clients* and insureds – end users who have a right to continue to have choice and options and help with those choices.”
- The Congressman “feels that life insurance taxation will be a hot topic.”
- “Our discussion on health care centered on the difficulties all agents have in helping seniors navigate Part D insurance and Medicare Advantage plans. We point out to [the congressman] the hours either an agent or an agent's staff spends trying to help clients solve problems with CMS.”
- The Congressman “asked my opinion on several areas within health care reform, with one question being whether or not we need radical reform . . . I emphasized that we cannot afford a radical change such as a public program to compete with the private sector . . . I believe he was sincere in wanting to keep in touch to ‘bounce health care ideas off of me.’”
- “We discussed the concern for potential changes to the tax treatment of life insurance and annuities . . . We expressed the need to give agents/advisors the choice as to where they wanted to be regulated.”
- The Congressman “is very supportive of NAIFA and the work we do.”
- “Overall, it was a great meeting. [The congressman's aide] asked that we keep in touch on a monthly basis with news and updates.”

And finally from a congressional office:

- “. . . advocacy is the most important and most effective level of government.” – House staff aide.

Savvy agents and advisors realize it is their duty to educate lawmakers about consumers' needs for advice in selecting insurance coverage and that professional service by licensed, fairly compensated agents must be a part of any health reform effort.

Recess meetings weren't the only means of successful grassroots activity. When the threat of a public plan was recently heightened, agents quickly generated thousands of letters and phone calls to members of Congress. These efforts were successful in keeping the public plan option out of the initial health reform proposal by Senate Finance Chairman Max Baucus (D-MT). While the Chairman has set it aside for now, many lawmakers remain intrigued by a public plan. If you haven't contacted your member of Congress on this issue, please review the [GovAlert](#) to do so and take advantage of the "Tell a Friend" feature that can be used to enlist the support of other agents, colleagues and clients.

To become an active participant in NAIFA's grassroots/grasstops program, please go to <http://www.naifa.org/advocacy/apic/signup.cfm>. You can make a difference.

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## Did You Know...?

Did you know that insurance companies employ about 2.2 million people as direct employees and as agents and brokers?