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Memorandum

Date: February 8, 2008

To: Department of Labor
Employee Benefits Security Administration
Office of Regulations and Interpretations
Submitted via email to e-ORI@dol.gov

From: Standard Insurance Company
900 Southwest Fifth Ave.
Portland, Oregon 97204

Re: 408(b)(2) Amendment; Proposed Written Contract/Compensation Disclosure Regulations

Standard Insurance Company appreciates the opportunity to submit comments on the proposed 408(b)(2) written contract compensation disclosure and representation regulations.

Company Profile: Standard Insurance Company is the fourth largest provider of group short term and group long term disability insurance and the eighth largest provider of group life insurance in the country.[1] Standard Insurance Company operates in all States, except New York. Our sister corporation, The Standard Life Insurance Company of New York, offers a similar line of group insurance products in New York. Standard Insurance Company and The Standard Life Insurance Company of New York are wholly owned subsidiaries of StanCorp Financial Group, Inc. StanCorp Financial Group, Inc. stock trades on the New York Stock Exchange under the symbol "SFG".

Scope: These comments pertain to the group disability, life and dental insurance products offered by the Employee Benefit Segment, of Standard Insurance Company. The Company's Retirement Plan Segment will submit separate comments pertaining to its business lines.

Comment 1: Standard Insurance Company urges the Department to consider an exemption from the proposed written contract compensation disclosure and representation regulations for group insurance products used to fund employee welfare benefit plans.

Discussion: Standard Insurance Company supports the disclosure of the compensation to be received by those who provide insurance services to employee benefit plans. We support disclosure of the compensation we are to receive from the employer or the plan in consideration

[1] Measured by in-force premium: JHA, 2006 U.S. Group Disability Market Survey, 2007; Gen Re, 2007 U.S. Group Life Market Survey, 2007

for providing group insurance coverage. In fact, we cannot get paid that compensation without such disclosure. That is why disclosure of insurer compensation is already a part of the way the group insurance business is conducted.

The competitive nature of the group insurance/employee welfare benefit marketplace and the very nature of group insurance itself (self-administration, including insurance premium calculation), assure that employers today are fully aware of the compensation received or to be received by the insurance company providing a group insurance policy that funds welfare plan benefits. Employers are fully aware of the insurer's compensation before the group insurance policy is issued and throughout the life of the policy.

Group Insurance RFP/Proposal Process: The vast majority of employers who seek to purchase group insurance to fund the benefits of their employee welfare benefit plans, do so by issuing a request for proposal (RFP) to one or more group insurance carriers. Nearly all do so by retaining the services of an insurance broker or consultant to represent the employer during the buying process, although a relatively small number of employers do without the services of such representatives. The request for proposal may be as simple as a telephone call or as complex as a multi-page formal RFP, with detailed specifications.

Group insurers interested in being considered for the employer's business will issue a formal written proposal in response to the RFP. The insurer's proposal will include one or more plan designs, e.g., eligibility requirements, waiting periods, benefit amounts, etc., and the proposed insurance premium rate associated with each plan design. Proposed insurance premium rates are based on the plan design and the employee census data provided by the employer as part of the RFP. Frequently the employer will select two or more "finalist" carriers to negotiate with over the final plan design and premium rates. The compensation the insurer is to receive, i.e., the premium rate or price, is always a substantial factor in the employer's buying decision. In many cases price is the determining factor.

Ultimately the employer selects one of the carrier's proposals and a group policy is issued. The group policy will contain the final premium rates negotiated by the parties. The insurer will guarantee premium rates for at least one year and rate guarantees of three years are common.

Group insurance premiums are typically paid in advance on a monthly basis. The premium amount due is a product of the premium rate and the insurance "volume", either the total life insurance amount or the total amount of employee earnings insured with respect to disability income insurance. The insurer sends the employer a premium statement with an estimate of the premium due for the next coverage period based on the insurance volume reported on the prior billing statement. The employer is responsible for adjusting the insurance volume and the premium due to reflect changes due to employees being added to or deleted from the plan and changes in salary or wages that affect insurance volume. The employer then issues a check to pay the premium due as adjusted.

Clearly the compensation received or to be received by the group insurance carrier is disclosed to the employer during the RFP process, when the group insurance policy is issued, and every time the employer pays the insurer's bill.

Renewals: At a point before the rate guarantee period is scheduled to end (typically three to six months before), the insurer will request an updated census from the employer. The insurer will re-evaluate the risk and determine whether a rate change is appropriate. If premium rates are adjusted, the insurer will issue a renewal proposal offering to continue the group insurance policy in effect at the rate stated in the renewal. Group policies typically require at least 31 days advance notice of a change in premium rates. To continue the group policy in force, all the employer has to do is to pay future premiums using the renewal premium rates. Renewal premium rates are also guaranteed for at least one year and renewal rate guarantees of three years are also common.

Once again buyers are fully aware of the insurer's compensation before the group insurance policy is renewed and throughout the life of the policy.

In the marketplace for group insurance/employee welfare benefit plans there certainly is no lack of disclosure of group insurer compensation.

Comment 2: If the Department decides the proposed compensation disclosure regulations should apply to group insurance products used to fund employee welfare benefit plans, we urge the Department to change the regulations to state that the written contract requirement can be satisfied by separate documents, so long as the compensation disclosure and representation are made to the responsible plan fiduciary.

Discussion: Unless changed, the proposed regulations can be read to require group insurance carriers to amend existing contract language to include compensation disclosures and a representation that the required disclosures were provided to the responsible plan fiduciary prior to the time the group insurance contract was entered into.

As an insurance company, we face a serious practical difficulty in making changes to the language used in our group insurance contracts. Generally, our contract language, including any amendments to it, must be filed with and approved by the state insurance department of any state in which we do business. Such filings can be a lengthy process. Many state insurance departments are overburdened already and the time frame for approval can range from several months to a year or more. We fear that having to add the required language to our already filed and approved group insurance contract forms will seriously impact how quickly we can comply with the regulation.

If group insurance carriers are required to amend existing in force contracts in order to provide the required compensation disclosure and representation that too will be a time consuming and expensive process.

In order to allow regulated insurers to comply quickly with any final regulation and to avoid the burden of filing changes to our state approved group policy language and amending in force group policies, we urge the Department to change the final regulation to state the written contract requirement can be satisfied by using separate documents so long as the required disclosures and representations are made.

Expressly including this “separate document” approach in the final regulation will achieve the Department’s regulatory goals, but with substantially less burden on the insurers who provide group insurance services to employee welfare benefit plans. We hope you will agree it is not necessary and would be unwise to disrupt or impose unreasonable compliance burdens on a group insurance marketplace that is already providing employers with complete disclosure of the compensation received by the group insurance carriers.

Thank you for the opportunity to provide comments on the proposed 408(b)(2) written contract compensation disclosure regulations. We appreciate your consideration. Please feel free to contact the author if we can be of service.

Yours truly,

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