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MEMORANDUM 2011-2LIC REVISED

TO: All Continuing Education Providers Offering Annuity Training and Insurers and Insurance Producers with a Life Line of Authority

FROM: Gordon I. Ito
Insurance Commissioner (the "Commissioner")

RE: Annuity Training Requirements for Insurance Producers

The purpose of this Commissioner's Memorandum is to respond to inquiries the Hawaii Insurance Division has been receiving with regard to annuity training requirements for insurance producers. Our responses are provided in a Question and Answer format.

Q: *Did Hawaii adopt the National Association of Insurance Commissioners Suitability in Annuity Transactions Model Regulation ("NAIC Model")?*

A: Yes. Hawaii adopted the latest version of the NAIC Model (adopted by NAIC March 2010). S.B. No. 1278, S.D. 1, H.D. 2, C.D. 1, which was enacted as Act 108, Session Laws of Hawaii 2011 ("Act 108"), adopted the NAIC Model, with several modifications, and the relevant sections affecting annuity training take effect on January 1, 2012.

You can view the text of Act 108 at:

http://www.capitol.hawaii.gov/session2011/bills/SB1278_CD1_.pdf

Q: *Why is it important for Hawaii to adopt the NAIC Model?*

A: Act 108 was enacted in 2011 to comply with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Section 989J of the Dodd-Frank Act requires all states to enact the NAIC Model by June 16, 2013.

Q: *Can you tell me more about what Act 108 requires with respect to annuity training?*

A: The purpose of Act 108 is to better protect consumers, particularly Hawaii seniors, against insurance producers who misrepresent their level of expertise and credentials in the marketing

and sales of life insurance and annuity products. By establishing annuity training requirements, Act 108 ensures that insurance producers have adequate knowledge before they are allowed to solicit the sale of annuity products. The NAIC Model requires insurance producers to get appropriate training before selling annuity products.

Q: *When will the Hawaii Insurance Division (the "Division") begin accepting applications for annuity training courses from continuing education providers?*

A: The Division is accepting applications for annuity training course approval now.

Q: *Will annuity training courses be under a specific annuity category?*

A: No. Annuity training courses will be part of the Life/Health Subject license line.

Q: *Who is responsible for ensuring that insurance producers comply with the annuity training requirement?*

A: Insurers will be responsible. Under Act 108, an insurer must verify that its insurance producer has completed the annuity training course before allowing the insurance producer to sell the insurer's annuity products.

Q: *How would insurers verify that its insurance producers are complying with Act 108?*

A: An insurer may obtain certificates of completion from the producer or training course providers.

Q: *Are insurance producers who sell annuity products and are authorized to sell life insurance before January 1, 2012, required to complete the one-time, four-hour annuity training by January 31, 2012? What about those insurance producers licensed after January 31, 2012?*

A: Effective January 1, 2012, an insurance producer authorized to sell life insurance and who is engaged in the sale of annuity products must complete a one-time, four-hour training course on annuity products by January 31, 2012. The training course must be approved by the Hawaii Insurance Commissioner (the "Commissioner") and must be conducted by an approved continuing education course provider ("Approved CE Provider"). Those insurance producers who obtain a life insurance line of authority after January 31, 2012, must complete the one-time, four-hour training before they can sell annuities.

Q: *Would an insurance producer ever be required to take an annuity training course more than once?*

A: The annuity training is a one-time requirement and not a condition of license renewal. Act 108 requires that a Hawaii insurance producer selling annuities must take the annuity training course only once, and the minimum length of the training must be sufficient to qualify for at least four continuing education credits.

Q: *Would an insurance producer selling annuity products be required to pass an examination relative to the annuity training course?*

A: No. If annuity training course is conducted in a classroom, no examination is required. However, if the annuity training course is conducted through self-study, the producer is required to take an examination to verify he or she was present throughout the entire course.

Q: Is it necessary to require a proctor or monitor for the completion of an annuity training course?

A: Yes.

Q: Would rules that normally apply to courses being taken for CE credit also apply to these courses?

A: No. We are considering amendments to the Insurance Code (chapter 431, HRS) that would apply existing requirements for continuing education providers to continuing education providers under Act 108.

Q: Are nonresident insurance producers also required to complete the annuity training requirement?

A: Yes, if the nonresident insurance producer is going to sell annuity products in the State of Hawaii. The relevant definition found in Hawaii Revised Statutes ("HRS") HRS § 431:10D-622 defines "Insurance Producer" as "a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance, including annuities." This definition does not differentiate between resident and nonresident insurance producers.

Q: Will the satisfaction of the annuity training requirements of another state that are substantially similar to those in Hawaii be deemed to satisfy the training requirements for Hawaii?

A: Although Act 108 is silent on this matter, the Division will recognize the completion of annuity training courses by Hawaii resident and nonresident insurance producers that are approved by another state with annuity training requirements that are substantially similar to Act 108. In addition, the Division plans to introduce amendments to the Insurance Code that would adopt reciprocity provisions during the 2012 legislative session.

Q. If a producer took an annuity training course prior to January 31, 2012, would this meet the training requirement?

A. Yes, provided that the annuity training course was approved by the Commissioner and offered by an approved CE provider.

If you have any questions, please contact the Insurance Division - Licensing Branch at (808) 586-2788 or email us at InsLic@dcca.hawaii.gov.