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INSURANCE SALES TO MILITARY PERSONNEL

Additional Actions Needed to Prevent Improper Life Insurance Sales and Pay Allotment Transactions



GAO

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Highlights of [GAO-09-452](#), a report to congressional requesters

Why GAO Did This Study

Concerns over unsuitable insurance products and inappropriate sales practices directed at servicemembers have prompted legislative and regulatory changes to address these concerns. Congress asked GAO to assess oversight efforts by the Department of Defense (DOD), the National Association of Insurance Commissioners (NAIC), and state insurance regulators. In this report, GAO (1) describes actions to improve oversight of life insurance sales to servicemembers and the extent to which they have been completed, and (2) identifies and analyzes factors that contribute to apparent ongoing inappropriate insurance sales. To complete this work, GAO visited five military facilities, analyzed DOD pay records, reviewed DOD and state enforcement actions, and spoke with DOD, state regulatory, and insurance industry officials.

What GAO Recommends

GAO recommends that (1) DOD and NAIC work together to improve the information shared on enforcement actions taken against insurers and agents, and (2) DOD improve controls to detect and prevent inappropriate insurance allotments, and report insurance companies to federal and state authorities when such allotments are found. DOD concurred with the recommendations and stated it would take actions to implement them. NAIC generally agreed with the recommendation to them, adding that it does not have authority to mandate use of the information system it developed.

View [GAO-09-452](#) or [key components](#). For more information, contact Jack Edwards, (202) 512-8246, edwardsj@gao.gov.

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What GAO Found

Since 2006, Congress, DOD, and state insurance regulators—through NAIC—have developed and implemented laws and regulations designed to help prevent inappropriate insurance product sales to military servicemembers. In 2006, Congress passed legislation that, among other things, sought to establish standards for life insurance products and sales practices. Also in 2006, DOD revised its instruction designed to govern insurance solicitations on military installations. In 2007, NAIC created a new regulation that, among other things, declared certain life insurance products and sales practices to be inappropriate. As of March 2009, all but five states had adopted the regulation. Further, DOD and state insurance regulators took actions against insurance companies and agents related to the inappropriate sale of life insurance products. Some actions are stayed, pending judicial review. Currently, DOD and NAIC have separate mechanisms to centralize the gathering of information on actions taken against those selling insurance to servicemembers. DOD maintains lists of such actions on its Web site, but these lists are not easily searchable and do not always contain some relevant information, such as the name of the insurance agent involved. In response to the 2006 law, NAIC created a system to inform state insurance regulators of such actions. However, as of March 2009, this system contained no data. According to DOD officials, their lists currently meet their needs, and they are reluctant to enter data into NAIC's system because they do not control it. Without ready access to relevant information on disciplinary actions against insurance agents and companies, DOD and state officials may be less able to identify patterns of problematic activities and prevent inappropriate insurance product sales to servicemembers.

Despite regulatory progress such as that cited above, some sales of insurance products that new state regulations generally presume to be unsuitable for servicemembers appear to be continuing. State regulators attributed the continuing sales to the new state regulations not being fully tested yet in state courts. In addition, GAO's review of DOD pay records identified approximately 40,000 allotment transactions that appear to have been created through inappropriate use of DOD's automated pay system, MyPay. For example, DOD regulations and new state regulations prohibit the use of MyPay for insurance allotments, but GAO found records of allotments with certain characteristics and patterns of bank account numbers that state regulators had previously identified as belonging to insurance companies. DOD has limited controls in place to detect or prevent such allotments. Such sales transactions, accomplished through MyPay instead of the proper paper form process for insurance allotments, also circumvent the 7-day cooling-off period that DOD requires to occur between the signing of an insurance application and the certification of an allotment into DOD's pay system. Without adequate controls in place to prevent improper allotments and inappropriate sales activities, servicemembers may continue to be at risk of purchasing unsuitable insurance products.

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Abbreviations

AFDCB	Armed Forces Disciplinary Control Board
DFAS	Defense Finance and Accounting Service
DOD	Department of Defense
MSORS	Military Sales Online Reporting System
NAIC	National Association of Insurance Commissioners
SGLI	Servicemembers Group Life Insurance

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United States Government Accountability Office
Washington, DC 20548

May 29, 2009

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
House of Representatives

The Honorable Paul E. Kanjorski
Chairman
The Honorable Scott Garrett
Ranking Member
Subcommittee on Capital Markets,
Insurance, and Government
Sponsored Enterprises
Committee on Financial Services
House of Representatives

Between January 2000 and December 2008, 13,148 active duty servicemembers died in combat- and non-combat-related events. In 2005, the federal government increased death benefits and life insurance coverage for servicemembers, providing survivors of deceased servicemembers with a \$100,000 death benefit and offering servicemembers up to \$400,000 in low-cost life insurance coverage through the government-sponsored Servicemembers Group Life Insurance (SGLI) program.¹ Some servicemembers and their families also choose to purchase supplemental life insurance from private market insurance companies. However, in reports we issued in 2005, we noted congressional findings that servicemembers were being offered high-cost life insurance

¹Additional information on government-provided survivor benefits is available in the appendixes of GAO, *Military Personnel: DOD Needs an Oversight Framework and Standards to Improve Management of Its Casualty Assistance Program*, [GAO-06-1010](#) (Washington, D.C.: Sept. 22, 2008). Also, comparisons of lump-sum and recurring benefits offered to deceased servicemembers' survivors with those offered to deceased federal, state, and local government employees' survivors are available in GAO, *Military Personnel: Survivor Benefits of Servicemembers and Federal, State, and City Government Employees*, [GAO-04-814](#) (Washington, D.C.: July 15, 2004).

and securities products by some financial services companies engaging in abusive and misleading sales practices.²

In the 2006 Military Personnel Financial Services Protection Act (the Act), Congress found that certain life insurance products were improperly marketed as investment products and provided minimal death benefits in exchange for excessive premiums that were front-loaded in the first few years, making the products inappropriate for most servicemembers.³ The Act provided for state insurance regulators, the National Association of Insurance Commissioners (NAIC),⁴ and the Department of Defense (DOD) to address concerns over unsuitable insurance products and inappropriate sales practices directed at servicemembers.

To help ensure the protection of servicemembers in the purchase of supplemental life insurance products, you asked us to provide an update on steps that have been taken since we completed related work in 2005 and areas where continued improvement may be needed. Specifically, we (1) identified actions initiated to improve oversight of life insurance sales in the military market and described the extent to which such actions have been completed, and (2) identified and analyzed factors that contribute to ongoing inappropriate insurance product sales to servicemembers.

To review actions taken to improve oversight of insurance sales activities in the military market in the United States and the extent to which such actions have been completed,⁵ we reviewed federal laws, the extent to which the NAIC Military Sales Practices Model Regulation (Model

²GAO, *Financial Product Sales: Actions Needed to Protect Military Members*, [GAO-06-245T](#) (Washington, D.C.: Nov. 17, 2005); *Financial Product Sales: Actions Needed to Better Protect Military Members*, [GAO-06-23](#) (Washington, D.C.: Nov. 2, 2005); and *Military Personnel: DOD Needs Better Controls over Supplemental Life Insurance Solicitation Policies Involving Servicemembers*, [GAO-05-696](#) (Washington, D.C.: June 29, 2005).

³Pub. L. No. 109-290, § 2, 120 Stat. 1317 (2006).

⁴NAIC is an association consisting of the heads of each state insurance department and those of the District of Columbia and four U.S. territories.

⁵DOD Inspector General, *Personal Commercial Solicitation of Military Personnel: Impact of DOD Actions and Public Law 109-290*, Report No. D-2009-056 (Arlington, Va.: Feb. 23, 2009), contains information on supplemental life insurance sales to servicemembers in Germany and Italy.

Regulation) has been adopted by the states,⁶ and revisions of DOD and service regulations and guidance. Further, we obtained information on actions taken to implement practices covered by new laws and regulations. This work encompassed conducting interviews with officials from state insurance commissioners' offices and reviewing available documents from recent state regulatory and DOD disciplinary actions against companies and agents selling supplemental life insurance products in the military market. We also gathered evidence on instances of cooperative efforts related to oversight of insurance sales in the military market. For example, we assessed the use of information-sharing mechanisms available within DOD and state insurance commissioners' offices, as well as practices at several military installations. We obtained additional insights through interviews with life insurance industry representatives.

To assess factors that contribute to inappropriate insurance products and sales, we collected information on ongoing insurance sales activities in the military market, comparing such activities with the requirements of federal law, the NAIC Model Regulation that served as the basis for recent changes to state regulations and laws, new state insurance regulations in various states, and DOD service-specific regulations. This work included collecting information from representatives of DOD during site visits to five U.S. military facilities, state insurance departments, and the life insurance industry. We also obtained pay allotment data from DOD and assessed their reliability for identifying payments made for life insurance premiums that may have been improperly established. After we found the data sufficiently reliable for the purposes of this review, we calculated statistics to quantify the magnitude of various types of potentially inappropriate activities known to DOD or state insurance regulators. Appendix I contains a more detailed description of our objectives, scope, and methodology.

We conducted this performance audit from August 2008 to May 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient,

⁶For a copy of the Model Regulation, see appendix B of NAIC, *Life Insurance Sales to Members of the Armed Forces* (Kansas City, Mo.: Sept. 28, 2007). Additional related information is available in NAIC, *Life Insurance Sales to Members of the Armed Forces—Report to Congress* (Kansas City, Mo.: Mar. 29, 2007). In this report, when we use “states” in reference to state insurance laws or regulations, we are referring to the 50 states, the District of Columbia, and the U.S. territories.

appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We are recommending that DOD and NAIC work together to take further steps to improve information sharing that will help ensure that each has ready access to all relevant information on disciplinary actions taken by the other. We are also recommending that DOD implement controls that will help prevent and detect improper insurance allotments of servicemembers, and report to federal and state enforcement authorities information on companies that are found to violate prohibitions associated with such allotments.

We provided a draft of this report to DOD and NAIC. The DOD Director of Morale, Welfare and Recreation Policy, Office of the Under Secretary of Defense for Personnel and Readiness, and the NAIC Chief Operating and Legal Officer provided written comments, which are reprinted in appendixes II and III, respectively. DOD agreed with the recommendations in the report and stated that it would take actions to improve information sharing on enforcement actions related to the sale of life insurance as well as review options for detecting and minimizing the use of MyPay for insurance allotments. NAIC generally agreed with the recommendation that it work together with DOD to improve the sharing of information on enforcement actions, and described actions that it has taken to improve information sharing. NAIC also noted that it does not have regulatory authority to mandate the use of the information-sharing system it has developed. DOD's and NAIC's comments, as well as our evaluation of their comments, are summarized at the end of this report.

Background

The federal government offers servicemembers life insurance as part of their total benefits package. Each member is eligible for the low-cost SGLI, which can provide up to \$400,000 of term life insurance coverage. Although many life insurance policies exclude coverage for death resulting from an act of war, SGLI does not contain this exclusion. In addition to the government-offered insurance, many servicemembers may be offered life insurance from private market insurers to supplement that offered through SGLI. Historically, a small number of insurance companies have targeted their marketing efforts at selling supplemental life insurance to servicemembers on and around military installations.

As we noted in November 2005, sales of a product that couples life insurance with a side savings fund have been problematic, especially for junior enlisted servicemembers.^{7 8} Those product sales had unfavorable features that included a high-cost life insurance product that provided nominal supplemental coverage and a side fund that had an unfavorable interest-crediting method and high withdrawal penalties for the policyholder. The products used automatic deductions from side fund savings to pay premiums in the event of nonpayment, a feature that can exhaust all savings. According to information provided by state regulators with whom we spoke for that report, those products have had high lapse rates, that is, a high percentage of the policies were terminated because of nonpayment by the policyholder.

In the United States, states are the primary regulators of insurance companies, products, and agents.⁹ The state insurance regulators oversee the insurance companies that do business in their jurisdictions in several ways, including reviewing and approving products for sale and examining the operations of companies to help ensure the companies' financial soundness and proper market conduct. Each state has its own insurance regulator and insurance laws. Additionally, NAIC provides a national forum for addressing and resolving major insurance issues. Such issues include efforts to develop consistent policies on the regulation of insurance among states, when consistency is deemed appropriate. It also serves as a clearinghouse for exchanging information and provides a structure for interstate cooperation for examinations of multistate

⁷GAO-06-23. The Related GAO Products section at the end of this report lists recent products pertaining to life insurance and other benefits available to servicemembers and the survivors of deceased servicemembers.

⁸As defined in NAIC's Model Regulation, "side fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement, or other mechanism that accumulates premium or deposits with interest or by other means. The term does not include (1) accumulated value or cash value or secondary guarantees provided by a universal life policy; (2) cash values provided by a whole life policy that are subject to standard nonforfeiture law for life insurance; or (3) a premium deposit fund that (a) contains only premiums paid in advance that accumulate at interest; (b) imposes no penalty for withdrawal; (c) does not permit funding beyond future required premiums; (d) is not marketed or intended as an investment; and (e) does not carry a commission, either paid or calculated.

⁹The federal government retains the authority to regulate insurance, giving primary responsibility for insurance regulation to the states in accordance with the McCarran-Ferguson Act of 1945. 15 U.S.C. §§ 1011-1015. State insurance regulatory jurisdictions include the 50 states, the District of Columbia, and four U.S. territories.

insurers. NAIC coordinates the development of model insurance laws and regulations for consideration by states.

Insurance sales to servicemembers are subject to state laws and regulations, as well as regulations established by DOD, the services, and individual installations. DOD's primary policy governing the solicitation of most products and services on military installations is set out in the DOD instruction on Personal Commercial Solicitation on DOD Installations.¹⁰ Among other things, the instruction identifies prohibited practices on DOD installations for agents offering life insurance to servicemembers and the procedures agents are to use to gain access to an installation for the purpose of commercial solicitation of insurance and other types of products and most services.

Within DOD, the Office of the Under Secretary of Defense for Personnel and Readiness is responsible for developing the policies and procedures governing personal commercial solicitation for life insurance and other products. Further, the heads of DOD components, or their designees, are responsible for ensuring implementation of the regulations and compliance with their provisions. Each service provides additional regulations regarding commercial solicitations, and some installations further specify how these DOD and service policies and practices are to be implemented locally. The Defense Finance and Accounting Service (DFAS) oversees the financial management regulations and the payroll computer systems and databases. DOD can provide some oversight of activities off installations through Armed Forces Disciplinary Control Boards (AFDCB), which can declare a business off-limits to servicemembers if a board determines the business to be causing harm to servicemembers.¹¹

Congress, DOD, and state insurance regulators have long recognized that unique financial protections are warranted for servicemembers. Regulations implementing the consumer protection provisions of the John Warner National Defense Authorization Act for Fiscal Year 2007 cited

¹⁰DOD Instruction 1344.07 (rev. Mar. 30, 2006).

¹¹The boards may be established by installation commanders to advise and make recommendations to the commanders on matters concerning the elimination of conditions that adversely affect the health, safety, welfare, morale, and discipline of the armed forces. For the Joint Service instruction, see Army Regulation 190-24, OPNAVINST1620.2A, AF131-213, MCO1620.2D, and COMDTINST1620.1E, Armed Forces Disciplinary Control Boards and Off-Installations Liaison and Operations (July 2006).

financial concerns as a major source of stress among servicemembers and highlighted the importance of financial readiness to mission readiness.¹² A state insurance regulatory official, who has worked on military issues for several years, mentioned that young servicemembers are a vulnerable sector of society, as many are often right out of high school and are generally a transient population.

Some Actions Have Been Taken to Protect Servicemembers from Inappropriate Insurance Sales, but Information-Sharing Mechanisms Have Not Been Fully Utilized

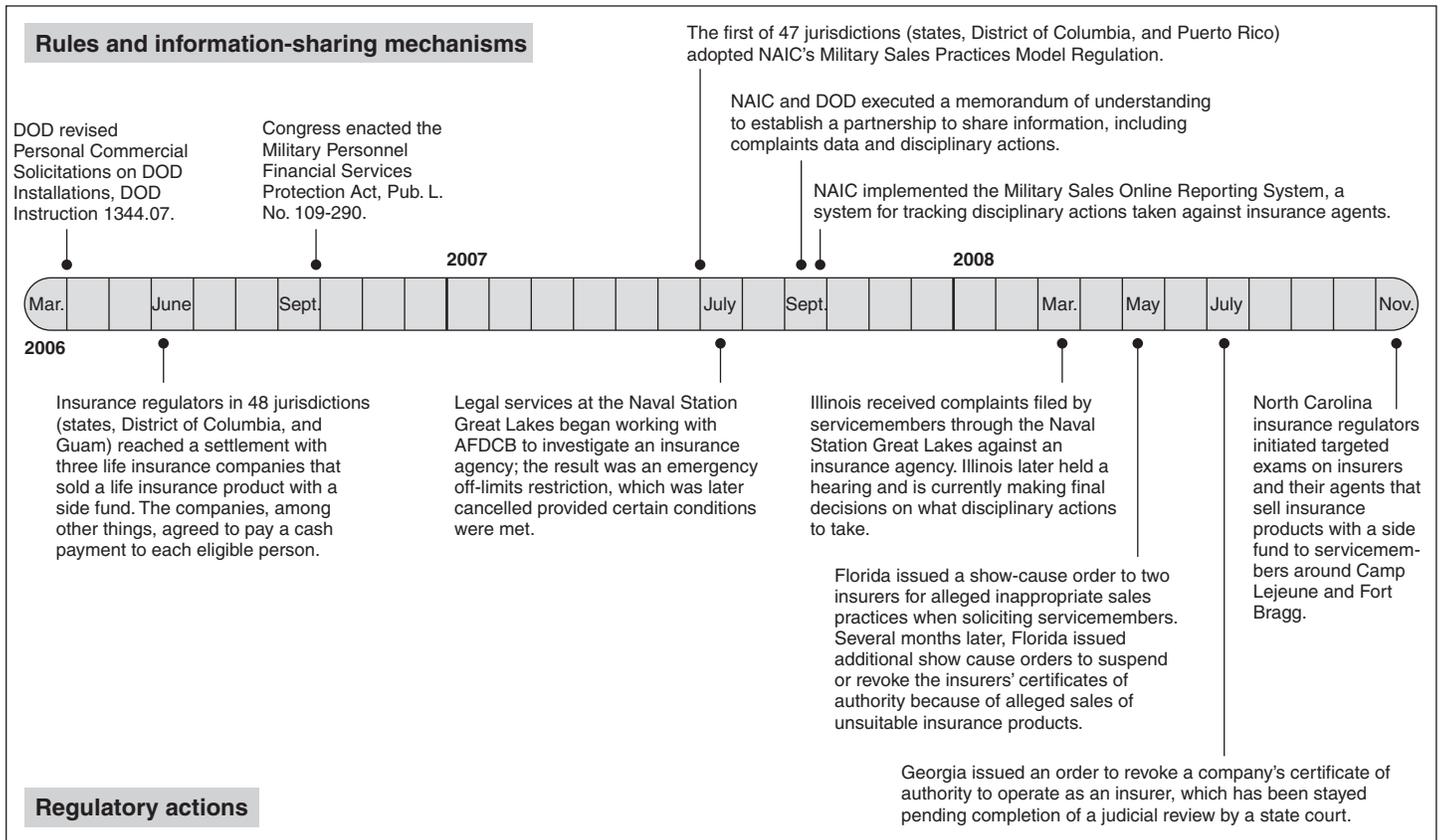
Congress, DOD, and State Insurance Regulators Developed Laws and Regulations Designed to Increase Protections for Servicemembers

In September 2006, Congress passed the Act to regulate the marketing and sale of life insurance products and securities on military installations and thereby protect servicemembers from sales of inappropriate financial products.¹³ (This and other actions are summarized in fig. 1.) The Act clarified that state insurance and securities laws generally apply to insurance and securities sales and related activities conducted on military installations worldwide. It also generally provided that if federal or state agencies or courts found that a person intentionally violated or willfully disregarded the Act's disclosures, discussed below, that person could be banned from selling insurance on federal lands, including military installations.

¹²72 Fed. Reg. 50580 (Aug. 31, 2007), final rule implementing the consumer protection provisions of the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 670, 120 Stat. 2083, 2266 (2006).

¹³The scope of this report is generally limited to sections 8 through 13 of the Act, which address life insurance products, although the Act addresses securities products in other sections.

Figure 1. Summary of Key Actions Taken in 2006 or Later to Help Protect Servicemembers from Inappropriate Insurance Sales Practices and the Sale of Insurance Products Presumed Unsuitable



Source: GAO analysis.

With respect to life insurance products, the Act created requirements and encouraged DOD and state insurance regulators to take certain actions. The Act

- encouraged DOD and state regulators to work together to improve the quality and sale of life insurance products sold on military installations, including the development of product standards designed to meet the needs of servicemembers whether or not the sale took place on military installations;

-
- encouraged state insurance regulators to work with DOD to implement standards that would protect servicemembers from dishonest and predatory insurance sales practices while on military installations;¹⁴ and
 - required insurance agents, at the time of sale of a supplemental life insurance product to a servicemember on a military installation, to disclose, in writing, information about SGLI (including the amount of coverage and costs), the fact that the supplemental product is not endorsed by the federal government, the structure and features (such as side funds, savings features, and automatic premium payment features) of the supplemental product, and contact information for making complaints to the appropriate state insurance regulator.

Additional protections from the Act are covered later when we discuss DOD's and NAIC's cooperation on a mechanism for sharing information on disciplinary actions.

In addition to action by Congress, DOD updated its instruction on Personal Commercial Solicitation on DOD Installations in March 2006, adding new prohibitions and requirements for on-installation solicitations for concerns that were not previously addressed. The services subsequently modified their regulations to implement the revised DOD instruction.¹⁵ Among other things, the revisions assign new responsibilities to certain DOD personnel, including installation commanders, to monitor sales practices of insurance agents, enforce compliance, and report certain information to DOD, state regulators, and appropriate federal personnel. The revisions also specifically forbid certain sales practices and impose requirements for insurance agents that, if violated, could result in the loss of privileges to solicit life insurance on military installations. The instruction does the following:

- It prohibits certain sales practices. For example, insurance agents soliciting on military installations are now prohibited from using

¹⁴For sales and solicitations occurring off military installations, state insurance law would apply.

¹⁵DOD Instruction 1344.07 applies to all individuals and businesses—including insurance agents—wanting to solicit on installations. The revised service-specific regulations are Army, Personal Commercial Solicitation on Army Installations, Army Regulation 210-7 (Oct. 18, 2007); Navy and Marine Corps, Solicitation and the Conduct of Personal Commercial Affairs on Department of the Navy Installations, SECNAVINST 1740.2E (July 12, 2008); and Air Force, Personal Commercial Solicitation on Air Force Installations, Instruction DODI1344.07_AFI36-2917 (Nov. 7, 2007).

promotional incentives, such as free items or contests, to facilitate transactions or to eliminate competition.

- It specifies conditions for advertising and commercial sponsorship. Among other things, businesses may not use sponsorship of an activity on a military installation as a means of collecting personal contact information from individuals without getting their written permission.¹⁶
- It requires installation commanders to monitor on-installation sales practices, enforce the DOD instructions, and ask that appropriate state officials determine whether a company or agent violated state law.
- It requires installation commanders to provide to, and request from, appropriate DOD, state regulators, and appropriate federal personnel certain types of information. For example, installation commanders should verify an agent's licensing status and complaint history with appropriate regulators prior to granting permission to solicit on an installation; notify the appropriate regulators if an investigation determines that an agent or company does not have a valid license or fails to meet other state or federal regulatory requirements; report concerns on the quality or suitability of financial products or concerns or complaints involving marketing methods to appropriate regulators; and report to DOD, state regulators, and appropriate federal personnel concerning reinstated, suspended, or withdrawn privileges to solicit on installations.

The new prohibitions were added to other standing prohibitions on inappropriate sales practices such as soliciting recruits, trainees, and transient personnel in a mass or captive audience; conducting solicitations in unauthorized areas; and soliciting without an appointment in certain housing or barracks areas.

Like the prior instruction that it replaced, the new DOD instruction requires a 7-day cooling-off period before an insurance allotment is certified, in order to give junior enlisted servicemembers an opportunity to receive insurance counseling from a disinterested third party and consider their decision before it becomes final. The instruction states that "at least seven calendar days shall elapse between the signing of a life insurance application and the certification of a military pay allotment for any

¹⁶For example, we obtained information about solicitation activities on one military installation where an insurance agency provided some funds to help sponsor an event on that installation. During the event, the agency apparently offered a prize drawing (e.g., for a flat screen television) as a means for collecting contact information from servicemembers for insurance product solicitations. State insurance regulators are currently reviewing whether such activities violate new state regulations.

supplemental commercial life insurance.”¹⁷ The instruction assigned the installation finance officer the responsibility for monitoring and enforcing the 7-day cooling-off period for servicemembers. The new instruction, however, expanded those subject to the 7-day cooling-off period to servicemembers with a pay grade of E-4 and below who have applied for life insurance, as compared with E-3 and below in the prior instruction.¹⁸

NAIC also took action to protect servicemembers from inappropriate life insurance sales by developing the Military Sales Practices Model Regulation. Among other things, the Model Regulation declared certain sales practices to be “false, misleading, deceptive, or unfair,” and has provisions that apply to both on- and off-installation solicitations and sales of life insurance products to servicemembers. An example of a practice deemed inappropriate would be an agent assisting a servicemember in initiating an allotment through DOD’s automated military pay system, MyPay, to remit life insurance premiums.¹⁹ The Model Regulation also declares that life insurance products with a side fund are presumed to be unsuitable to junior servicemembers (pay grades E-4 and below) who are currently enrolled in SGLI unless after completion of a needs assessment, the insurer demonstrates that the servicemember’s SGLI benefit and other factors are insufficient to meet his or her needs for life insurance. The Model Regulation also deems products with certain features to be unsuitable for all servicemembers, regardless of pay grade or whether a needs assessment is completed. These features include deceptive interest-crediting methodologies and automatic premium payment provisions.

According to NAIC, as of March 2009, 47 jurisdictions (states, the District of Columbia, and Puerto Rico) had adopted NAIC’s Model Regulation covering insurance sales practices used with servicemembers. Using DOD-supplied information on the numbers of active duty servicemembers

¹⁷The Office of the Under Secretary of Defense for Personnel and Readiness reaffirmed DOD’s view that DOD Instruction 1344.07, Section E3.3, Use of the Allotment of Pay System, and requirements in this section, such as the counseling and the 7-day cooling-off period, are applicable to all military pay allotments for insurance purposes, whether on or off the installation.

¹⁸A pay grade of E-4 is equivalent to a rank of corporal or specialist in the Army, a petty officer third class in the Navy, a corporal in the Marine Corps, and a senior airman in the Air Force.

¹⁹The Model Regulation states that this provision does not prohibit assisting a servicemember by providing insurer or premium information necessary to complete any allotment form.

located in each state, NAIC estimated that about 99 percent of those servicemembers are currently in states that have adopted a version of the Model Regulation.²⁰ NAIC documents indicate that NAIC expects the five remaining states that had not passed it to do so in 2009.²¹

Not all states have adopted the Model Regulation without revision. For example, California and Florida expanded the application of certain provisions to all servicemembers rather than restricting them to those with a pay grade of E-4 and below, as the Model Regulation does. Regulators from California said that for certain life insurance products restricted by the regulation, a needs assessment is required for all servicemembers, not just those of lower pay grades.

States and DOD Took Regulatory Actions against Insurers and Agents in the Military Market

In addition to creating new regulations, a number of state insurance regulators and DOD took regulatory actions against some insurers and agents. In June 2006, insurance regulators reached a multistate settlement with three life insurance companies that sold a life insurance product with a side fund.²² As of April 2009, NAIC stated that 48 jurisdictions (states, the District of Columbia, and Guam) had signed on to the multistate settlement. The companies denied any wrongdoing or violation of law, but agreed to enter into a settlement agreement that did several things:

- It prohibited the companies and their agents from soliciting and selling any of their products on any U.S. military installation (worldwide) for 5 years.
- It required each company to immediately terminate, for 5 years, the appointments of agents upon the occurrence of certain events.
- It prohibited each company and its agents from sponsoring specified activities without prior written approval.
- It prohibited each company and its agents from participating in or assisting with any training for servicemembers regarding personal finance

²⁰These numbers do not include active duty servicemembers stationed on installations overseas—a population that is not within the scope of this report. In 2008, DOD had approximately 1.4 million active duty servicemembers worldwide.

²¹Indiana, Massachusetts, Michigan, Minnesota, and Pennsylvania had not yet adopted the Model Regulation.

²²The insurance commissioners for Georgia and Texas negotiated the settlement on behalf of the participating regulators and NAIC.

when conducted off a military installation if an inducement to attend the training exceeds the amount allowed by applicable law.

- It required each company to establish and perform specific due diligence practices to ensure its agents are complying with laws and regulations.

The settlement also defined procedures for the companies to use in making compensatory cash payments or providing better policy terms to over 90,400 potentially eligible persons.²³ The settlement required the companies to deposit \$10 million for the future cash payments to eligible persons. The Texas Comptroller was to hold the deposit until the payments could be sent to eligible persons.²⁴ As of April 2009, a state official said approximately 14,400 (26 percent) of 55,000 persons eligible for a refund could not be located.²⁵ Payments that the companies were unable to distribute or remained unclaimed will be turned over to appropriate states.

State insurance regulators in several states also have ongoing investigations or pending enforcement actions related to the sales of life insurance to servicemembers by several agencies and two life insurance companies. Four notable actions that had not been fully resolved as of April 1, 2009, are described below.

- In 2008, Georgia's insurance regulators began investigating a company selling an insurance product with a side fund that they believed violated Georgia insurance regulations. On the basis of information obtained from the state and other sources, the department and the company entered into a consent order under which the company agreed, among other things, to issue refunds for policies purchased on or after September 1, 2007. The department's revocation of the company's certificate of authority to

²³Policies purchased between January 1, 2000, and June 8, 2006, and subsequently terminated will generally receive cash compensation. The settlement also provides the formula for calculating the compensation. Policies that are still in effect will generally receive better policy terms, including cancellation of the automatic payment feature.

²⁴The Texas Commissioner of Insurance is responsible for ordering the release of the deposit. The settlement requires that compensation to eligible owners be verified using protocols defined in the settlement before the Commissioner can order release of the deposit.

²⁵The settlement specified delivery procedures that the three insurance companies should use to notify owners of eligible policies about the payments. Initially, the policyholder's last known permanent home address should be used. If a company cannot find a valid address for a policyholder or the notice mailed was not deliverable, it is to use other methods, including the use of a specified Internet-based search engine.

operate as an insurer in Georgia has been stayed pending the completion of a judicial review by a state court.

- In 2008, Florida's Office of Insurance Regulation began investigating two affiliated insurance companies that may have violated Florida law regarding deceptive sales practices when soliciting servicemembers.²⁶ Such sales practices included gaining access to servicemembers' MyPay accounts, which insurance agents are alleged to have used to establish ongoing electronic fund transfers to pay for life insurance products. In January 2009, Florida initiated further investigations of the two companies, focusing on the alleged unsuitability of the products sold to active duty servicemembers. The legal basis for the 2009 investigations is Florida's Military Sales Practice regulations, which became effective in November 2007. In January 2009, Florida issued a show-cause order to initiate action to revoke the two insurers' certificates of authority, an action that would prohibit them from selling insurance in the state. A Florida official said hearings for the insurance companies are scheduled for June and July of 2009.
- In November 2008, North Carolina's Department of Insurance and officials at Marine Corps Base Camp Lejeune began working together to investigate potential sales practice violations such as using MyPay to initiate insurance allotments for life insurance products with a side fund. With information provided by an installation official, state insurance regulators made on-site visits at various insurance agency locations throughout the state, including the area around Fort Bragg, and obtained evidence of potential violations.
- In February 2008, the Illinois insurance regulator began working with Naval Station Great Lakes to investigate an insurance agency and its agents for alleged sales practice violations, which included selling life insurance products with a side fund as well as obtaining and changing servicemembers' personal identification numbers for their MyPay accounts. In March 2008, the regulator conditionally revoked the agency's license and three of its agents' licenses. As of April 2009, Illinois officials said the Illinois insurance commission had held a hearing on the alleged sales practice violations and was working toward a final decision.

DOD and installations have additionally undertaken separate investigations and enforcement actions against some life insurance companies and agents. For the three companies involved in the previously

²⁶One of these two affiliated companies is the same company currently under investigation in Georgia, according to publicly available information.

cited multistate settlement, DOD barred each company for a period of 5 years from soliciting on any military installation worldwide. Also, certain military installations have worked with an AFDCB to investigate companies and agents alleged to have engaged in inappropriate insurance sales activities.

During our site visit to Naval Station Great Lakes, installation officials provided us with information on two investigations conducted by the board involving alleged sales practice violations by an agency selling life insurance products with a side fund for an insurance company. Once its first investigation, which began in 2007, was completed, the board initially rescinded the agency's permit to solicit on the installation. After giving the agency an opportunity to take corrective actions, the installation did not reinstate the agency's permit to solicit on the installation but allowed the agency to pick up servicemembers by the main gate. Beginning in February 2008, Great Lakes staff again worked with the board to investigate the same insurance agency and its agents, who were selling products for the same insurance company as they had in the previous investigation. Shortly after the board began its second investigation examining a number of complaints involving the agency and the insurance products it was selling, it placed the agency off-limits.²⁷ The board also rescinded permission for the agency to use the parking lot outside the installation's main gate. Ultimately, the board rescinded its off-limits restriction on the agency so long as the agency complied with the corrective actions the board had proposed, but the insurance agents left Illinois, according to DOD and state regulatory officials. We observed that one of these agents was subsequently placed on DOD's list of banned agents for activities under a different company name in Florida.

DOD and NAIC Initiated Information-Sharing Efforts but Have Not Fully Integrated Their Efforts to Track Disciplinary Actions

While DOD, states, and NAIC have taken steps to cooperate on some life insurance-related issues, they have not implemented an integrated system that shares information on disciplinary actions taken against life insurance companies and agents selling to the military market. According to both DOD and NAIC officials, they communicate at least quarterly by telephone or e-mail. The 2006 Act requires they meet at least twice a year.²⁸ Additionally, in their September 2007 memorandum of understanding,

²⁷The off-limits restrictions for this investigation applied to all armed forces located in the Navy's Midwest region.

²⁸Pub. L. No. 109-290, § 9.

DOD and NAIC representatives agreed to an information-sharing partnership. As part of that partnership, DOD is to maintain information on persons who have been barred or persons whose access to military installations has been limited. DOD is to make this information accessible to state insurance regulators.

DOD has created lists designed to meet the requirements of the Act, but this approach has limitations, some of which we identified in our June 2005 report. When we examined DOD's mechanism for maintaining information on disciplinary actions against insurers as part of our 2005 report, we noted that DOD's then current list was not searchable, did not provide the same information (e.g., agent names and insurer names) on every case, and did not identify the specific types of violations.²⁹ To correct that problem, we recommended that DOD develop and implement, with the services, a DOD-wide searchable violations database that uses consistent data elements and coding across services. The 2006 Act also required that DOD maintain a current and easily accessible list of the names, addresses, and "other appropriate information" of persons engaged in the business of securities or insurance that have been barred from or otherwise limited in access to installations or that have engaged in any transaction prohibited by the Act.

Currently, DOD maintains its lists of disciplinary actions on the Web on its Commanders Page (www.commanderspage.com). According to NAIC and state insurance officials, these lists still have some of the same limitations we reported in our 2005 report. For example, these officials discussed with us problems with missing data, such as the name of the insurance company for which an agent is selling products; a lack of specificity on the violations involved; and the inability to perform searches on the data (e.g., by agent or company name). Similarly, in our own examination of these lists, we found that there are separate lists for various time periods, and the lists cannot be searched at the same time. For example, to search for an entity, a user would have to know the time frame when an entity was initially placed on a list. Otherwise, each list would have to be searched individually. We also observed that the lists did not always contain information relevant to violations that resulted in disciplinary actions less severe than a barring or a limitation of access to an installation, and in some cases, did not include other relevant information, such as the name of the agent, agency, and insurer involved or the type of product sold.

²⁹ [GAO-05-696](#).

According to an official from the Office of the Under Secretary of Defense for Personnel and Readiness, the Commanders Page meets the department's needs.

The system that NAIC has implemented to facilitate collection of information on disciplinary actions also has some limitations, and it has not been used. The Act asked the states to take a role in monitoring disciplinary actions and collectively implement a system to receive reports of disciplinary actions taken against persons that sell or solicit life insurance products on any U.S. military installation and disseminate such information to other states and DOD. In response to that provision, NAIC implemented its Military Sales Online Reporting System (MSORS) on the NAIC Web site. NAIC staff explained that MSORS is designed to enable organizations—such as insurance companies and federal and state agencies—to communicate disciplinary actions to NAIC and state insurance regulators through the NAIC Web site. The advantages that MSORS is intended to provide are its single point for data reporting and its uniform set of data fields to collect consistent information from all reporting organizations. Without MSORS as the single point for data entry, information would have to be provided separately to each of the 50 states, the District of Columbia, and territories. We identified several limitations with this system, which are described below.

- The Act requires whatever system is developed to include information on disciplinary actions against insurers and agents, but does not define what constitutes such an action. An NAIC official said that because of this uncertainty, NAIC is operationally defining a disciplinary action as an action that results in an insurer terminating an agent's employment or appointment (where an agent is not employed directly by the insurer but sells products for that insurer). As a result, insurance companies or federal (e.g., DOD) and state agencies may not enter data into MSORS on agents banned from an installation when no employment or appointment termination occurred. For example, because agents voluntarily left Illinois following the previously discussed incident at Naval Station Great Lakes, MSORS would not have any information on the agents, even if they had committed inappropriate practices or sold unsuitable insurance products.
- MSORS is not designed for queries by external organizations such as DOD. According to an NAIC official, installation officials would need to contact state regulators to obtain information when performing actions such as issuing a permit that allows an insurance agent to solicit on an installation.
- As of March 2009, no data had been entered into MSORS, according to NAIC officials. DOD can enter information on disciplinary actions it has

taken on insurance agents, agencies, or companies in MSORS. However, such activity, as listed on the Commanders Page, has not yet been entered into MSORS. An official from the Office of the Under Secretary of Defense for Personnel and Readiness explained DOD staff had not entered data into MSORS for two reasons. First, according to the official, DOD is reluctant to enter information into MSORS because it does not control the system or database; NAIC maintains MSORS. Second, MSORS is intended to collect disciplinary information related to sales activities that have taken place on military installations, but sales activities have generally moved off military installations. While MSORS could capture information related to activities that have moved off the installations, the Act does not require such information to be reported.

These limitations in DOD's lists and NAIC's system can have negative effects. In our 2005 report, we identified adverse consequences resulting from an inadequate system for monitoring disciplinary actions against life insurance agents and companies that violate prohibitions against certain sales practices. For example, the failure to disseminate information to other parts of DOD or to state insurance regulators about agents and companies that violate DOD solicitation policy can enable violators to continue operating on other installations and in other states. We also concluded that the continued absence of important data would force DOD, the services, and installations to take actions based on isolated incidents, anecdotes, and other possibly insightful, but nonoptimal information on patterns of behavior.

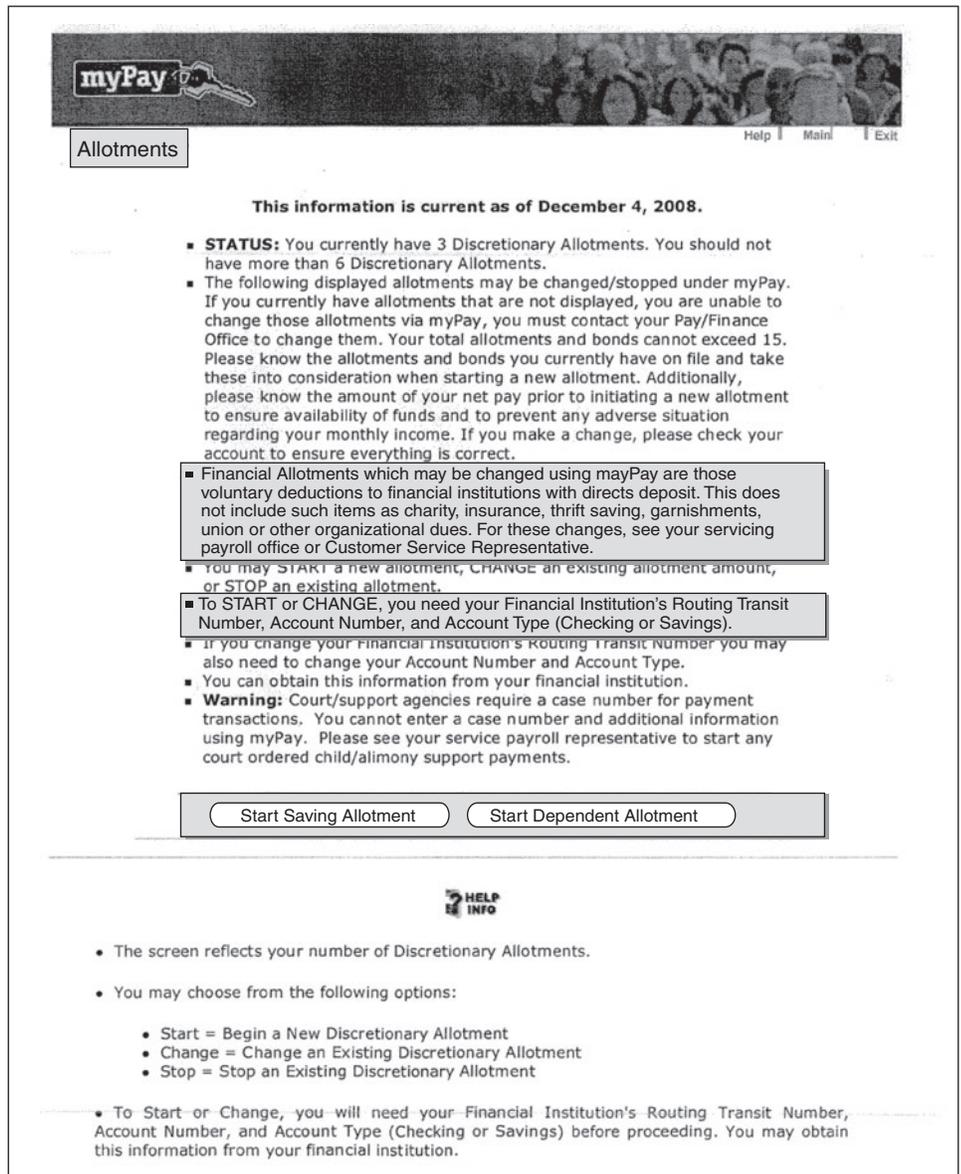
Inappropriate Sales Practices and Some Sales of Unsuitable Insurance Products Appear to Continue

Numerous Insurance Sales Appear to Continue through MyPay because of Limited Controls to Detect and Prevent Insurance Allotments

Despite new regulations and actions taken by DOD and state regulators, inappropriate sales practices and some sales of unsuitable life insurance products appear to continue. According to DOD's Financial Management Regulation, a properly executed form or a written request from a servicemember—or his or her agent acting under a power of attorney—may be used to establish, discontinue, or change an allotment.³⁰ In a reply to a letter of inquiry from the Texas Department of Insurance, DFAS confirmed that MyPay is not an authorized medium to process transactions for insurance allotments and is not intended for doing so. The DFAS response went on to note that military members must complete a paper copy of the Department of Defense Form 2558, Authorization to Start, Stop or Change an Allotment, and send the form to their servicing finance or disbursing office for processing. In interviews with DFAS representatives, they confirmed that servicemembers are allowed to use MyPay only to initiate (1) a “savings” allotment, which authorizes DFAS to direct part of an individual’s pay to a savings or checking account in the servicemember’s name, or (2) a “dependent” allotment, which authorizes DFAS to direct part of an individual’s pay to a savings or checking account in the name of the dependent (The allotment selections in MyPay are shown in fig. 2.)

³⁰DOD, Financial Management Regulation 7000.14-R, Vol. 7A, Chapter 41, sec. 410801.

Figure 2: MyPay Allotments Screen with Key Information Highlighted



Source: DOD.

Additionally, NAIC's Model Regulation, adopted by most states, prohibits insurers and their agents from using or assisting in using a servicemember's MyPay account or other similar Internet or electronic medium for the purchase of life insurance. Further, insurers are prohibited from receiving funds from a servicemember for the payment of a premium

from a depository institution with which the servicemember has no formal banking relationship.³¹ Moreover, if an allotment is started with MyPay, the Model Regulation requires a form to be entered into the insurer's files on the insured servicemember. Specifically, the Model Regulation indicates that it is a false, misleading, deceptive, or unfair act or practice to "Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form [e.g., DOD Form 2558] which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DOD or any branch of the Armed Forces."

Our analyses of targeted allotment data, based on problems we identified in our November 2005 report, showed that approximately 40,000 insurance allotment transactions for servicemembers appear to have been initiated through MyPay to remit the premiums for life insurance products for the years 2006 through 2008, despite regulations prohibiting this method for establishing such allotments.³² We did not verify these individual transactions with the insurance companies in question because of ongoing litigation between regulators and the companies, but we consulted with the Texas and Georgia insurance commissioners' offices to determine characteristics of allotments that they had found to be problematic in their investigations of life insurance sales to the military market. We observed one or more of these characteristics in each of these allotments.

- We identified almost 29,000 allotment transactions—worth over \$3.7 million—that directed funds to bank account numbers with specific prefixes, used in conjunction with the servicemember's Social Security number, which state insurance regulators had identified as being used by insurance companies.

³¹The Model Regulation states that a formal banking relationship is established when the depository institution (a) provides the servicemember a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301 *et seq.*, and the regulations promulgated thereunder, and (b) permits the servicemember to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

³²We identified hundreds of thousands of additional questionable allotments—besides those identified as going to insurance companies—that did not appear to be going to accounts controlled by the servicemembers. Many of these allotments used a common account among multiple servicemembers or account numbers that included some variation of the servicemember's Social Security number.

-
- We identified another almost 11,250 allotment transactions that directed funds to a single bank account number, also identified by state regulators as being used by an insurance company. Many servicemembers directing funds to the same bank account would indicate that the account number is not unique and therefore not in the name of the servicemember.
 - Among these two groups of allotments, we also identified many that had a variation of the insurance company's name as the name of the servicemember's dependent, indicating that those allotments were likely not going to an account for a dependent.

Because each of these types of allotments is entered into MyPay as a savings or dependent allotment, it is not designated on a servicemember's leave and earnings statement as an insurance allotment. In contrast, DFAS officials said that an insurance allotment established properly, with the paper process, would be designated on a leave and earnings statement as an insurance allotment.

DFAS lacks sufficient controls to prevent or routinely identify and correct inappropriate insurance allotments initiated through MyPay. While the computer screens that a servicemember accesses to create an allotment include an advisement to the servicemember that the system is not to be used for allotment changes tied to insurance, few other controls that could detect or prevent insurance allotments are in place. According to DFAS officials, the system checks allotment information against a list of approved bank routing numbers and accepts any bank account number as long as it contains the proper number of characters. In addition, the system does not attempt to determine if the name of a dependent entered by a servicemember is actually a person's name. Officials said that instituting extensive controls over allotments could be difficult and must be balanced against the efficiencies gained by having a flexible, automated system.

The inappropriate use of MyPay to initiate insurance allotments can harm servicemembers in at least two ways. First, because MyPay allotments for insurance circumvent the intended paper allotment process, they also bypass the encouraged counseling and required 7-day cooling-off period (both specified in DOD's commercial solicitation instruction). As a result, they make ineffective the safeguards that are designed to help ensure that a servicemember acquires a life insurance product that meets the individual's unique needs. We had documented similar problems

associated with using the allotment system to pay for such products in our June 2005 report.³³ For example, allotments were being started without verification that a 7-day cooling-off period had occurred and without an opportunity for junior enlisted personnel to receive counseling about the purchase. Second, given that our review of several physical examples of product sales documents found that monthly premiums ranged between about \$100 and \$200 per month, a significant portion of a servicemember's monthly basic income could be used to pay for a life insurance product that, according to regulators, often had high lapse rates. For example, a monthly premium of \$100 would amount to more than 6 percent of the 2008 (a period covered by the allotments in our analysis) monthly pretax basic pay of \$1,509.90 for an E-2 servicemember with 2 years of experience.

Some Sales of Potentially Unsuitable Insurance Products to Servicemembers Appear to Continue

Despite actions by DOD and state regulators, some insurance companies appear to be continuing to sell servicemembers life insurance products deemed to be unsuitable by state insurance regulators. In response to the Act's direction that NAIC work with DOD to create standards for life insurance products specifically designed to meet the particular needs of servicemembers, NAIC incorporated such standards into its Model Regulation. The Model Regulation, which has been adopted by most states, identified conditions under which the sale of certain life insurance products to E-4 and below servicemembers is declared "false, misleading, deceptive or unfair."³⁴ For example, offering for sale or selling a life insurance product with a side fund to such individuals currently enrolled in SGLI is "presumed unsuitable" unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance. The Model Regulation also prohibits deceptive interest-crediting methodologies and mandatory automatic premium payment provisions, which divert accumulations from side funds to pay for the life insurance in the event that payments to the insurer cease. Products with such features are deemed unsuitable for servicemembers regardless of pay grade or whether a needs assessment is performed.

³³ [GAO-05-696](#).

³⁴ NAIC, Military Sales Practices Model Regulation § 7; see also § 6.

However, we found evidence of continued sales of life insurance products that regulators deem to be unsuitable for many servicemembers. Regulatory concerns and questions about the suitability of product sales directed at servicemembers are found in the previously cited regulatory actions currently under way in Georgia and Florida. In these two states, one of the issues being investigated is the suitability of the product. We identified additional suitability-related concerns as part of our document reviews and interviews during site visits to military installations. Also, in our review of materials documenting the ongoing sales of insurance products to servicemembers, we found indications that potentially unsuitable products were being sold. For example, we obtained sample premium payment schedules and application materials that combined high-cost life insurance coverage with a side fund, consistent with the products that we described in our 2005 report. Such products offer servicemembers nominal supplemental coverage at a high cost, particularly in the first year of the product, and incorporate several adverse features that limit the benefits of the side fund savings component of the product. In our November 2005 report, we similarly documented problems with such products. Our findings showed that these products had (1) much higher premiums than policies offered by the government or other companies; (2) a provision that depletes any accumulated savings to pay the insurance premiums if the servicemember stops making the scheduled payments;³⁵ and (3) adverse features on the side fund, including withdrawal penalties and methods of interest crediting that significantly reduced the advertised rate of return for the side fund savings component of these products.

According to key state insurance regulators with whom we spoke, one reason that sales of such products continue is that the new state regulations intended to prohibit such sales have not yet been fully tested by state courts. Those regulators suggested that while some insurers had stopped selling a life insurance product in the military market that coupled high-cost coverage with a side fund savings component, others would likely continue such sales until state courts rule definitively on whether selling such products is now illegal. State regulators also noted that some of the insurance companies that continue to sell these products essentially do not sell any other types of products, and thus may be reluctant to stop. Some regulators indicated that certain insurers remaining in the military

³⁵After the automatic premium payment provision is triggered and the savings fund becomes depleted, the policy then terminates, or lapses.

market may opt to change their policies to adhere to new state regulations, but the regulators were uncertain as to whether such product changes would be made across all states in the future.

To the extent that sales of insurance products presumed unsuitable for many servicemembers continue, those servicemembers could be harmed financially. As mentioned earlier, such products have features adverse to servicemembers that can limit the returns on the savings component of the product. Furthermore, if payments are discontinued, this can trigger the exhaustion of all the savings in the side fund to pay for the insurance premiums. As a result, the servicemember could end up with no additional life insurance and have lost all the funds accumulated in the savings portion of the product.

Conclusions

DOD and state regulators have been using new laws and regulations to take actions against insurers employing prohibited sales practices and offering products that are presumed to be unsuitable for certain servicemembers absent a demonstration to the contrary. With life insurance sales moving largely off the installations, the increased regulatory enforcement efforts of state insurance commissioners are particularly important. DOD, NAIC, and states have moved forward on partnership efforts to address some of the problems that continue to exist. One partnership area where we documented concern pertains to limitations in the mechanisms that DOD and NAIC use to monitor disciplinary actions against insurance companies and agents. Maintenance of separate mechanisms suggests that the Military Personnel Financial Services Protection Act's call for monitoring of disciplinary actions has not been fully accomplished. Further, the limitations of DOD's lists and NAIC's MSORS continue, such as the narrow definition of the disciplinary actions and the limited types of relevant data that are collected. These limitations will continue to hamper DOD's and the state regulators' ability to identify patterns of violations and will prevent a closer partnership among DOD, NAIC, and the states. Not fully resolving these concerns places servicemembers at risk of encountering companies and agents using prohibited sales practices and being solicited to purchase products that are presumed unsuitable for most junior servicemembers.

States such as Georgia, Texas, and Florida have provided leadership in addressing sales practices and products that have continued to be problematic in the military market. While the 2006 multistate settlement with three insurance companies was an important start toward increased regulatory enforcement, the ongoing cases have not been fully resolved.

Until resolution is reached, it will not be clear what, if any, limitations might exist in the provisions of the NAIC Model Regulation, which has been adopted by almost all states, the District of Columbia, and Puerto Rico. In the interim, inappropriate payments for life insurance products appear to continue to be made using MyPay—an activity prohibited by DOD regulation and state insurance laws adopting variations of the Model Regulation. Also, some sales of life insurance products with a side fund appear to continue despite their presumed unsuitability for many servicemembers and the movement of some insurance companies away from offering such products. While there are pending decisions as to whether ongoing enforcement actions regarding certain life insurance products are permissible, delays in DOD’s tightening its monitoring of MyPay could deprive servicemembers of savings and result in unsuitable life insurance products being purchased through the military pay allotment system.

Recommendations for Executive Action

To help ensure more coordinated and effective oversight of insurance sales to servicemembers, we recommend that the Secretary of Defense through the Under Secretary of Defense for Personnel and Readiness, and state insurance regulators through NAIC, work together to take further steps to improve the sharing of information available on enforcement actions. Such steps could include

- clarifying and expanding the definition of disciplinary actions that should be entered and maintained in both DOD’s and NAIC’s databases (e.g., beyond terminated agents, and agents and companies banned from or limited in access to an installation);
- ensuring that all relevant information (e.g., agent, agency, and company name; specific violation descriptions; and characteristics of the life insurance product) on each disciplinary action is shared; and
- reaching agreement on the mechanism to be used to share the collected information, such that the information is proactively and systematically communicated to both NAIC and DOD and can be readily searched by either.

To better enforce existing DOD restrictions on the use of MyPay for insurance allotments, we recommend that the Secretary of Defense direct the Director of the Defense Finance and Accounting Service to

- implement controls and measures that will improve DFAS’s ability to detect and minimize the use of MyPay to initiate insurance allotments, and

-
- provide state and federal enforcement authorities with information on companies that are found to violate prohibitions on the use of MyPay to establish a financial relationship other than those explicitly permitted.

Agency Comments and Our Evaluation

We provided a draft of this report to DOD and NAIC. The DOD Director of Morale, Welfare and Recreation Policy, Office of the Under Secretary of Defense, and the NAIC Chief Operating and Legal Officer submitted written comments about the draft report. These comments are reprinted in appendixes II and III, respectively. In addition, DOD and NAIC provided technical comments on the report, which we incorporated as appropriate.

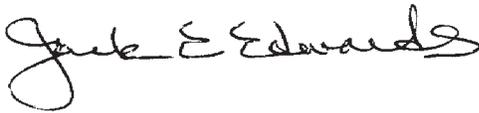
In commenting on a draft of this report, DOD agreed with our recommendations and stated that it would take actions to implement them. For example, it stated that it would work with state insurance regulators to take further steps to improve the sharing of information on enforcement actions. In addition, the department stated that it would review options for improving its ability to detect and minimize the use of MyPay to initiate insurance allotments. These are important efforts, and we would encourage DOD to develop plans and time frames for their implementation. In response to our recommendation that DOD provide state and federal enforcement authorities with information on companies that are found to violate prohibitions on the use of MyPay, DOD stated that it would provide information to these authorities when requested. While providing such information when requested can help these authorities with potential enforcement actions, we would encourage DOD to be proactive in its sharing of such information. Controls and measures implemented by DOD within the MyPay system could identify instances where insurance companies and others may have violated prohibitions on the use of the system, and federal and state regulators might not become aware of such instances unless DOD takes the initiative to provide them with the relevant information.

NAIC generally agreed with our recommendation that it work together with DOD to improve the sharing of information on disciplinary actions, and described efforts that it has undertaken to improve such information sharing. For example, it stated that to help supplement the reporting of information into MSORS, NAIC staff recently implemented a more in-depth review of DOD's Commanders Page to identify relevant information. NAIC emphasized, however, that it does not have regulatory authority to mandate use of the system and the submission of data is dependent on insurers, federal entities, and state entities other than state insurance departments. We would encourage NAIC to be proactive in its continuing

efforts to work with DOD and others to help ensure that its information-sharing system is fully utilized.

As agreed with your offices, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from its date of issue. At that time we will send copies of this report to interested congressional committees, the Secretary of Defense, the Chief Executive Officer of the National Association of Insurance Commissioners, and others. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8246 or edwardsj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff that made major contributions to this report are listed in appendix IV.



Jack E. Edwards
Director, Financial Markets
and Community Investment

Appendix I: Scope and Methodology

To review recent actions taken to improve oversight of insurance sales activities in the military market in the United States and the extent to which such actions have been completed, we reviewed actions taken by Congress, the Department of Defense (DOD), and state insurance regulators since our previous reports were issued in 2005. As part of our work, we interviewed officials from the National Association of Insurance Commissioners (NAIC) as well as state insurance commissioners' offices in several states and appropriate DOD officials about their efforts. We selected particular states based on the presence of military installations within those states known to have a significant number of servicemembers with a rank of E-4 and below. To identify new laws and regulations, we reviewed recent changes in federal law passed by Congress; the Model Regulation created by NAIC; several state laws based on the Model Regulation; and revised regulations implemented by DOD, the services, and several installations. To identify enforcement actions taken by state insurance regulators and DOD officials, we spoke with relevant officials and reviewed publicly available information and information provided by state insurance regulators and DOD. To analyze the capabilities of the information-sharing mechanism created by NAIC, we received a demonstration at NAIC's offices of the system it had developed. We reviewed DOD's information-sharing mechanism by accessing its publicly available Web site. We also compared the data maintained by DOD and NAIC. To review on-installation solicitation activities, we gathered documents and other information during our visits to four military installations, spoke with relevant officials at those installations, and compared the activities identified with relevant state laws and DOD regulations. We visited one installation each for the Army, Navy, Air Force, and Marine Corps, and selected these installations based on the presence at each of a significant number of servicemembers with a rank of E-4 and below. Specifically, we visited Fort Sill, Oklahoma; Naval Station Great Lakes, Illinois; Sheppard Air Force Base, Texas; and Marine Corps Base Camp Lejeune, North Carolina. We also spoke with several state insurance regulators during our fieldwork.

To assess factors that may contribute to ongoing improper insurance product sales in the United States, we collected information on ongoing insurance sales activities in the military market, comparing such activities with the requirements of federal law, DOD regulations, NAIC's Model Regulation, and state laws and regulations based on that model. This work included collecting information from representatives of DOD during site visits to the installations noted above, as well as several state insurance regulators. To understand and review data on insurance allotments created by servicemembers, we visited the Defense Finance and

Accounting Service (DFAS) in Indianapolis, Indiana, for an explanation and demonstration of the MyPay system. We then obtained from DFAS pay allotment data for calendar years 2006 through 2008. We assessed the reliability of these data and found the data to be sufficiently reliable for the purposes of this review. We conducted analyses of these data to identify potentially improper allotments. In general, these analyses consisted of searching for allotments with (1) bank account numbers identified by state insurance regulators as being used by insurance companies known to sell life insurance in the military market; (2) bank account numbers, or partial bank account numbers that incorporated the servicemember's Social Security number, identified by regulators as being used by insurance companies; and (3) the name of an insurance company listed as a dependent of the servicemember. Because of ongoing litigation, we did not verify with the servicemembers, insurance companies, or the banks involved that the allotments identified by our searches were actually for the purchase of life insurance or what type of product might be involved. However, as noted in this report, the characteristics of the allotments identified indicate that those allotments may have violated DOD and state insurance regulations.

We conducted this performance audit from August 2008 to May 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Defense



OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

MAY 18 2009

Mr. Jack E. Edwards
Director
Financial Markets and Community Investment
U.S. Government Accountability Office (GAO)
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Edwards:

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-09-452, "INSURANCE SALES TO MILITARY PERSONNEL: Additional Actions Needed to Prevent Improper Insurance Sales and Pay Allotments Transactions," dated April 20, 2009 (GAO Code 250416).

The Department concurs with the findings in this report. Questions your staff may have concerning these responses may be addressed to Mr. James Ellis at (703) 588-0877 or via email James.Ellis@osd.mil.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Crespi".

Pamela Crespi
Director

Morale, Welfare and Recreation Policy

Attachment:

GAO DRAFT REPORT DATED APRIL 20, 2009
GAO-09-452 (GAO CODES 250416)

"INSURANCE SALES TO MILITARY PERSONNEL: ADDITIONAL ACTIONS
NEEDED TO PREVENT IMPROPER INSURANCE SALES AND PAY
ALLOTMENT TRANSACTIONS"

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION

RECOMMENDATION 1: The GAO recommended that the Under Secretary of Defense for Personnel and Readiness and state insurance regulators, through the National Association of Insurance Commissioners (NAIC), work together to take further steps to improve the sharing of information available on enforcement actions by clarifying and expanding the definition of disciplinary actions that should be entered and maintained in both DoD's and NAIC's databases. (p. 26/GAO Draft Report)

DOD RESPONSE: Concur. The Department will work with State insurance regulators to take further steps to improve information sharing relative to enforcement actions.

RECOMMENDATION 2: The GAO recommended that the Under Secretary of Defense for Personnel and Readiness and state insurance regulators, through NAIC, work together to take further steps to improve the sharing of information available on enforcement actions by ensuring that all relevant information on each disciplinary action is shared. (p. 27/GAO Draft Report)

DOD RESPONSE: Concur. The Department will work with the State insurance regulators to take further steps to improve information sharing relative to enforcement actions.

RECOMMENDATION 3: The GAO recommended that the Under Secretary of Defense for Personnel and Readiness and state insurance regulators, through NAIC, work together to take further steps to improve the sharing of information available on enforcement actions by reaching agreement on the mechanism to be used to share the information collected, such that the information is proactively and systematically communicated to both NAIC and DoD and can be readily shared by either. (p. 27/GAO Draft Report)

DOD RESPONSE: Concur. The Department will work with the State insurance regulators to take further steps to improve information sharing relative to enforcement actions.

Attachment

RECOMMENDATION 4: The GAO recommended that the Secretary of Defense direct the Director of Defense Finance and Accounting Service (DFAS) to implement controls and measures that will improve DFAS's ability to detect and minimize the use of MyPay to initiate insurance allotments. (p. 27/GAO Draft Report)

DOD RESPONSE: Concur. The DFAS will review options to detect and minimize the use of MyPay to initiate insurance allotments.

RECOMMENDATION 5: The GAO recommended that the Secretary of Defense direct the Director of DFAS to provide state and federal enforcement authorities with information on companies that are found to violate prohibitions on the use of MyPay to establish a financial relationship other than those explicitly permitted. (p. 27/GAO Draft Report)

DOD RESPONSE: Concur. The DFAS will provide information to state and federal enforcement authorities when requested.

Attachment

Appendix III: Comments from the National Association of Insurance Commissioners



May 18, 2009

Jack E. Edwards
Director, Financial Markets and Community Investment
U.S. Government Accountability Office
441 G. Street, NW
Washington, DC 20548

Dear Mr. Edwards,

Thank you for providing the NAIC with the GAO's draft report entitled "Insurance Sales to Military Personnel: Additional Actions Needed to Prevent Improper Insurance Sales and Pay Allotment Transactions" (GAO-09-452). We appreciate the opportunity to comment on the continuing commitment of state regulators to protect military personnel from inappropriate sales of life insurance products.

With regard to specific references in the report calling for greater data sharing between the NAIC and the Department of Defense (DoD), the NAIC implemented the Military Sales Online Reporting System (MSORS). This new system provides a centralized reporting mechanism through which state regulators receive reports from insurers, federal government entities and state government entities regarding disciplinary actions taken against persons arising from the sale or solicitation of any life insurance product on any military installation of the United States. Through this system, the user has a uniform set of data fields and a centralized point to report disciplinary actions to all state insurance departments. MSORS may also be used to receive reports from federal government entities and state regulatory entities other than insurance departments. At the same time, it is important to emphasize the NAIC does not have regulatory authority to mandate the use of this system. The submission of data to this system is wholly dependent upon the proactive reporting of information by insurers, federal governmental entities and state governmental entities other than state insurance departments. To help supplement the reporting of information into MSORS, the internal staff of the NAIC has recently implemented a more in-depth review of the DoD's Commander's Page to identify relevant information. Finally, the NAIC agrees with the need for greater clarification from Congress regarding the definition of a "disciplinary action" to enhance the reporting of data.

While not mentioned in the report, the NAIC's Complaint Database System, the national insurance database for the tracking of consumer complaints, was also modified to collect complaint information involving military personnel from state insurance departments. Additionally, the NAIC's Regulatory Information Retrieval System (RIRS) was modified to capture adjudicated final regulatory actions involving solicitation and sales to military servicemembers. As part of this effort, the NAIC continues to encourage the DoD and military base commanders to notify the appropriate state insurance regulator of complaints and adjudicated regulatory actions upon receipt. By doing so, the DoD can

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**Appendix III: Comments from the National
Association of Insurance Commissioners**

leverage the expertise and resources of state insurance regulators early in the process to help identify inappropriate practices and best protect military personnel.

Finally, the NAIC strongly supports and encourages the improvement of controls to detect and prevent inappropriate insurance allotments through the DoD's automated pay system, MyPay.

In closing, the NAIC would like to reiterate the proactive and positive steps state regulators have taken to protect military personnel.

- Creation of a consumer brochure specifically tailored to address life insurance issues faced by military personnel.
- Promulgation of the Military Sales Practices Model Regulation. To date, 47 jurisdictions have adopted the model regulation.
- Execution of a Memorandum of Understanding with the DoD to encourage the use of the NAIC's consumer brochure as part of the DoD campaign to improve the financial literacy of military personnel and their families, and promote the sharing of complaint data and disciplinary actions with respect to sales or solicitations of life insurance products to military personnel.
- Development of the Military Sales Policyholder Search Tool to help military personnel research and recover compensation resulting from a 2006 multistate regulatory settlement agreement over life insurance sales practices to the military.
- Ongoing monitoring by the NAIC Military Sales Working Group for inappropriate sales activities to the military.

Again, the NAIC appreciates the opportunity to provide these comments to the GAO and our members look forward to continued collaboration with the DoD to protect the interests of military personnel and their families.

Sincerely yours,



Andrew J. Beal
Chief Operating Officer and
Chief Legal Officer

Appendix IV: Contact and Staff Acknowledgments

GAO Contact

Jack E. Edwards (202) 512-8246 or edwardsj@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Patrick Ward (Assistant Director), Farah Angersola, William Bates, Tania Calhoun, Emily Chalmers, William R. Chatlos, Barry Kirby, Marc Molino, Angela Pun, Steve Ruszczyk, and Jennifer Schwartz made key contributions to this report.

Related GAO Products

Military Personnel: DOD Needs an Oversight Framework and Standards to Improve Management of Its Casualty Assistance Programs. [GAO-06-1010](#). Washington, D.C.: September 22, 2006.

Financial Product Sales: Actions Needed to Protect Military Members. [GAO-06-245T](#). Washington, D.C.: November 17, 2005.

Financial Product Sales: Actions Needed to Better Protect Military Members. [GAO-06-23](#). Washington, D.C.: November 2, 2005.

Military Personnel: DOD Needs Better Controls over Supplemental Life Insurance Solicitation Policies Involving Servicemembers. [GAO-05-696](#). Washington, D.C.: June 29, 2005.

Military Personnel: Survivor Benefits for Servicemembers and Federal, State, and City Government Employees. [GAO-04-814](#). Washington, D.C.: July 15, 2004.

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