

June 5, 1970

SUBJECT: INSURANCE

Circular Letter No. 11 (1970)

TO ALL INSURERS AUTHORIZED TO TRANSACT LIFE INSURANCE IN THIS STATE

Re: Premium Financing Arrangement for Programs or Plans to Sell Mutual Fund Shares and Life Insurance

Gentlemen:

The Insurance Department has had under review the propriety of premium financing arrangements which are part of a program or plan for the simultaneous sale of mutual fund shares and life insurance.

For example, one such program involves the payment of insurance premiums through loans secured by mutual fund shares which are purchased by a participant for cash. The financing arrangement for the payment of the life insurance is available only as part of a transaction which includes the purchase of mutual fund shares. If a prospect chooses to purchase insurance only, he is unable to avail himself of the financial arrangements included in the program for the payment of insurance premiums. The premium is financed by the parent company of the general agent, the general agent being a wholly owned subsidiary.

It is the Department's view that the aforementioned premium financing arrangement comes within the terms of Circular Letter 64-8 issued by the Department on August 11, 1964 and that it contains an inducement which, unless it is specified in the contract of insurance, is in violation of Section 209 of the Insurance Law. Where the company, the general agent or the field agent or any combination thereof is involved in the premium financing, Section 209 requires that the inducement must be specified in the policy or contract of insurance. However, even where the provisions of a premium finance plan are set forth in the policy, there may be unfair discrimination between individuals of the same class and of equal expectation of life in the terms and conditions of the policy or contract of insurance. Any life insurer desiring to incorporate into its policy a special premium financing arrangement should be prepared to demonstrate, in addition, that the proposal does not constitute a prohibited "unfair" discrimination.

Additionally, such programs for the financing of life insurance premiums, when implemented, place on the insurer, the selling agent, and the general agent the responsibility to make certain, in connection with such sales of insurance (a) that there are no violations of Regulation No. 39, Sections 127 or 211 of the Insurance Law and (b) that such sales are not accompanied by inordinate replacement of existing insurance.

Kindly acknowledge receipt of this letter to Mr. I. Murray Krowitz, Chief of the Life Bureau.

Very truly yours,

[SIGNATURE]

RICHARD E. STEWART

Superintendent of Insurance