



LIFE INSURANCE ASSOCIATION  
OF MASSACHUSETTS



The Honorable Andrea Joy Campbell  
Massachusetts Office of the Attorney General  
Policy & Government Affairs Division  
One Ashburton Place, 20th Floor  
Boston, MA 02108  
Via email: [junkfees@mass.gov](mailto:junkfees@mass.gov)

December 20, 2023

Re: Proposed Adoption of Regulation 940 C.M.R. 38.00 (Unfair and Deceptive Fees)

Dear Attorney General Campbell:

The Life Insurance Association of Massachusetts, the American Council of Life Insurers, and the Insured Retirement Institute value the opportunity to respond to the proposed adoption of Regulation 940 C.M.R. 38.00. We urge you to exempt life and annuity carriers and products from the regulation.

Life and annuity carriers and products are highly and ably regulated by the Division of Insurance in all aspects of our business. Chapter 176D (Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance) addresses most of the areas 940 C.M.R. 38.00 seeks to regulate. Insurers are subject to Chapter 176D and Division of Insurance regulations in all aspects of our business, including sales, advertising, marketing, and pricing.

Disclosures specific to life insurance-related fees must be sent to consumers, advertisements are strictly regulated and must be approved by the Division, and the Massachusetts insurance commissioner and regulators in other states have extensive authority to conduct market conduct examinations and request information and data from licensees. Inclusion of the life insurance industry in the regulation is unnecessary and inappropriate and would be harmful to our policyholders.

A number of sections in the proposed regulation are problematic for life insurance companies.

For example, 940 C.M.R. 38.04(3) would make it a violation to fail to *“disclose the Total Price of any Product prior to requiring a consumer to provide any personal information, including billing information, unless said information is collected specifically, and only to the extent necessary, to determine whether the Sale of such Product to the consumer is legal, or whether the Product is available in the consumer’s geographic location.”*

Although this disclosure requirement may make sense for other industries, it would undermine the ability of life insurers to properly underwrite, thereby disrupting consumers’ access to financial and retirement security products.

Insurers must collect personal information during the underwriting process, before quoting a Total Price to a customer. Life and annuity carriers and distributors, for example, must collect personal information about a person’s age, general health, and financial situation before quoting a price and issuing a

contract to a consumer. Insurance depends on the collection of personal information- up front, with the customer's permission – to appropriately price the product.

Life and annuity carriers have excellent track records regarding consumer satisfaction. Our members recognize their affirmative obligation to provide consumers with valuable products. We would welcome the opportunity to speak to you in further detail about 940 C.M.R. 38.00 and the need to exempt life and annuity insurers and products from it.

Sincerely,



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