

MILITARY PERSONNEL FINANCIAL SERVICES
PROTECTION ACT

OCTOBER 5, 2004.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 5011]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the
bill (H.R. 5011) to prevent the sale of abusive insurance and invest-
ment products to military personnel, having considered the same,
report favorably thereon with an amendment and recommend that
the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Military Personnel Financial Services Protection Act”.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) Our military personnel perform great sacrifices in protecting our Nation in the War on Terror and promoting democracy abroad.

(2) Our brave men and women in uniform deserve to be offered first-rate financial products in order to provide for their families and to save and invest for retirement.

(3) Our military personnel are being offered high-cost securities and life insurance products by some financial services companies engaging in abusive and misleading sales practices.

(4) One securities product being offered to our service members, the contractual plan, has largely disappeared from the civilian market since the 1980’s due to its excessive sales charges. A 50 percent sales commission is assessed against the first year of contributions, even though the average commission on other securities products such as mutual funds is less than 6 percent on each sale.

(5) The excessive sales charges of the contractual plan makes it susceptible to abusive and misleading sales practices.

(6) Certain life insurance products being offered to our service members are being improperly marketed as investment products. These products provide very low death benefits for very high premiums that are front-loaded in the first few years, making them completely inappropriate for most military personnel.

(7) Regulation of these securities and life insurance products and their sale on military bases has been clearly inadequate and requires Congressional legislation to address.

SEC. 3. PROHIBITION ON FUTURE SALES OF PERIODIC PAYMENT PLANS.

(a) AMENDMENT.—Section 27 of the Investment Company Act of 1940 (15 U.S.C. 80a-27) is amended by adding at the end the following new subsection:

“(j) TERMINATION OF SALES.—

“(1) TERMINATION.—Effective 30 days after the date of enactment of the Military Personnel Financial Services Protection Act, it shall be unlawful, subject to subsection (i)—

“(A) for any registered investment company to issue any periodic payment plan certificate; or

“(B) for such company, or any depositor of or underwriter for any such company, or any other person, to sell such a certificate.

“(2) NO INVALIDATION OF EXISTING CERTIFICATES.—Paragraph (1) shall not be construed to alter, invalidate, or otherwise affect any rights or obligations, including rights of redemption, under any periodic payment plan certificate issued and sold before 30 days after such date of enactment.”.

(b) TECHNICAL AMENDMENT.—Section 27(i)(2)(B) of such Act is amended by striking “section 26(e)” each place it appears and inserting “section 26(f)”.

SEC. 4. METHOD OF MAINTAINING BROKER/DEALER REGISTRATION, DISCIPLINARY, AND OTHER DATA.

Subsection (i) of section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(i)) is amended to read as follows:

“(i) OBLIGATION TO MAINTAIN REGISTRATION, DISCIPLINARY AND OTHER DATA.—

“(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—A registered securities association shall—

“(A) establish and maintain a system for collecting and retaining registration information;

“(B) establish and maintain a toll-free telephone listing, and a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding—

“(i) registration information on its members and their associated persons; and

“(ii) registration information on the members and their associated persons of any registered national securities exchange that uses the system described in subparagraph (A) for the registration of its members and their associated persons; and

“(C) adopt rules governing the process for making inquiries and the type, scope, and presentation of information to be provided in response to such inquiries in consultation with any registered national securities exchange providing information pursuant to subparagraph (B)(ii).

“(2) RECOVERY OF COSTS.—Such an association may charge persons making inquiries, other than individual investors, reasonable fees for responses to such inquiries.

“(3) PROCESS FOR DISPUTED INFORMATION.—Such an association shall adopt rules establishing an administrative process for disputing the accuracy of information provided in response to inquiries under this subsection in consultation with any registered national securities exchange providing information pursuant to paragraph (1)(B)(ii).

“(4) LIMITATION OF LIABILITY.—Such an association, or an exchange reporting information to such an association, shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.

“(5) DEFINITION.—For purposes of this subsection, the term ‘registration information’ means the information reported in connection with the registration or licensing of brokers and dealers and their associated persons, including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law, or exchange or association rule, and the source and status of such information.”.

SEC. 5. FILING DEPOSITORIES FOR INVESTMENT ADVISERS.

(a) AMENDMENT.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by striking “Every investment” and inserting the following: “(a) IN GENERAL.—Every investment”; and

(2) by adding at the end the following:

“(b) FILING DEPOSITORIES.—The Commission may, by rule, require an investment adviser—

“(1) to file with the Commission any fee, application, report, or notice required to be filed by this title or the rules issued under this title through any entity designated by the Commission for that purpose; and

“(2) to pay the reasonable costs associated with such filing and the establishment and maintenance of the systems required by subsection (c).

“(c) ACCESS TO DISCIPLINARY AND OTHER INFORMATION.—

“(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—The Commission shall require the entity designated by the Commission under subsection (b)(1) to establish and maintain a toll-free telephone listing, or a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law or rule to be reported) involving investment advisers and persons associated with investment advisers.

“(2) RECOVERY OF COSTS.—An entity designated by the Commission under subsection (b)(1) may charge persons making inquiries, other than individual investors, reasonable fees for responses to inquiries made under paragraph (1).

“(3) LIMITATION ON LIABILITY.—An entity designated by the Commission under subsection (b)(1) shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) Section 306 of the National Securities Markets Improvement Act of 1996 (15 U.S.C. 80b-10, note; P.L. 104-290; 110 Stat. 3439) is repealed.

SEC. 6. STATE INSURANCE JURISDICTION ON MILITARY INSTALLATIONS.

(a) CLARIFICATION OF JURISDICTION.—Any law, regulation, or order of a State with respect to regulating the business of insurance shall apply to insurance activities conducted on Federal land or facilities in the United States and abroad, including military installations, except to the extent that such law, regulation, or order—

(1) directly conflicts with any applicable Federal law, regulation, or authorized directive; or

(2) would not apply if such activity were conducted on State land.

(b) **PRIMARY STATE JURISDICTION.**—To the extent that multiple State laws would otherwise apply pursuant to subsection (a) to an insurance activity of an individual or entity on Federal land or facilities, the State having the primary duty to regulate such activity and whose laws shall apply to such activity in the case of a conflict shall be—

- (1) the State within which the Federal land or facility is located; or
- (2) if the Federal land or facility is located outside of the United States, the State in which—
 - (A) in the case of an individual engaged in the business of insurance, such individual has been issued a resident license; or
 - (B) in the case of an entity engaged in the business of insurance, such entity is domiciled.

SEC. 7. REQUIRED DEVELOPMENT OF MILITARY PERSONNEL PROTECTION STANDARDS REGARDING INSURANCE SALES.

(a) **STATE STANDARDS.**—The Congress intends that—

- (1) the States collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation of the United States (including installations located outside of the United States); and
- (2) each State identify its role in promoting the standards described in paragraph (1) in a uniform manner within 12 months after the date of the enactment of this Act.

(b) **STATE REPORT.**—It is the sense of the Congress that the NAIC should, after consultation with the Secretary of Defense and within 12 months after the date of the enactment of this Act, conduct a study to determine the extent to which the States have met the requirement of subsection (a) and report such study to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 8. REQUIRED DISCLOSURES REGARDING LIFE INSURANCE.

(a) **REQUIREMENT.**—Except as provided in subsection (d), no insurer or producer may sell or solicit, in person, any life insurance product to any member of the Armed Forces on a military installation of the United States unless a disclosure in accordance with this section is provided to such member before the sale of such insurance.

(b) **DISCLOSURE.**—A disclosure in accordance with this section is a written disclosure that—

- (1) states that subsidized life insurance may be available to the member of the Armed Forces from the Federal Government;
- (2) states that the United States Government has in no way sanctioned, recommended, or encouraged the sale of the product being offered;
- (3) is made in plain and readily understandable language and in a type font at least as large as the font used for the majority of the policy; and
- (4) with respect to a sale or solicitation on Federal land or facilities located outside of the United States by an individual or entity engaged in the business of insurance, except to the extent otherwise specifically provided by the laws of such State in reference to this Act, lists the address and phone number where consumer complaints are received by the State insurance commissioner for the State in which the individual has been issued a resident license or the entity is domiciled, as applicable.

(c) **ENFORCEMENT.**—If it is determined by a State or Federal agency, or in a final court proceeding, that any individual or entity has intentionally failed to provide a disclosure required by this section, such individual or entity shall be prohibited from further engaging in the business of insurance with respect to employees of the Federal Government on Federal land, except—

- (1) with respect to existing policies; and
- (2) to the extent required by the Federal Government pursuant to previous commitments.

(d) **EXCEPTIONS.**—

(1) **FEDERAL AND STATE INSURANCE ACTIVITY.**—This section shall not apply to insurance activities—

- (A) specifically contracted by or through the Federal Government or any State government; or
- (B) specifically exempted from the applicability of this Act by a Federal or State law, regulation, or order that specifically refers to this paragraph.

(2) **UNIFORM STATE STANDARDS.**—If a majority of the States have adopted, in materially identical form, a standard setting forth the disclosures required under this section that apply to insurance solicitations and sales to military per-

sonnel on military installations of the United States, after the expiration of the 2-year period beginning on such majority adoption, such standard shall apply in lieu of the requirements of this section to all insurance solicitations and sales to military personnel on military installations, with respect to such States, to the extent that such standards do not directly conflict with any applicable authorized Federal regulation or directive.

(3) **MATERIALLY IDENTICAL FORM.**—For purposes of this subsection, standards adopted by more than one State shall be considered to have materially identical form to the extent that such standards require or prohibit identical conduct with respect to the same activity, notwithstanding that the standards may differ with respect to conduct required or prohibited with respect to other activities.

SEC. 9. IMPROVING LIFE INSURANCE PRODUCT STANDARDS.

(a) **IN GENERAL.**—It is the sense of the Congress that the NAIC should, after consultation with the Secretary of Defense and within 12 months after the date of the enactment of this Act, conduct a study and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on ways of improving the quality of and sale of life insurance products sold by insurers and producers on military installations of the United States, which may include limiting sales authority to companies and producers that are certified as meeting appropriate best practices procedures or creating standards for products specifically designed for members of the Armed Forces regardless of the sales location.

(b) **CONDITIONAL GAO REPORT.**—If the NAIC does not submit the report to the committees as described in subsection (a), the Comptroller General of the United States shall study any proposals that have been made to improve the quality and sale of life insurance products sold by insurers and producers on military installations of the United States and report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such proposals within 6 months after the expiration of the period referred to in subsection (a).

SEC. 10. REQUIRED REPORTING OF DISCIPLINED INSURANCE AGENTS.

(a) **REPORTING BY INSURERS.**—After the expiration of the 2-year period beginning on the date of the enactment of this Act, no insurer may enter into or renew a contractual relationship with a producer that solicits or sells life insurance on military installations of the United States unless the insurer has implemented a system to report, to the State insurance commissioner of the State of the domicile of the insurer and the State of residence of the insurance producer, disciplinary actions taken against the producer with respect to the producer's sales or solicitation of insurance on a military installation of the United States, as follows:

(1) Any disciplinary action taken by any government entity that the insurer knows has been taken.

(2) Any significant disciplinary action taken by the insurer.

(b) **REPORTING BY STATES.**—It is the sense of the Congress that within 2 years after the date of the enactment of this Act, the States should collectively implement a system to—

(1) receive reports of disciplinary actions taken against insurance producers by insurers or government entities with respect to the producers' sale or solicitation of insurance on a military installation; and

(2) disseminate such information to all other States and to the Secretary of Defense.

SEC. 11. REGISTRY OF BARRED INSURANCE AGENTS AND FINANCIAL ADVISORS.

(a) **ESTABLISHMENT.**—The Secretary of Defense shall establish a registry of insurance agents and financial advisors that have been barred or banned from doing business on any or all military installations of the United States. The registry shall be operational not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(b) **UPDATING.**—The Secretary shall update and maintain such registry in a manner that ensures the registry is at all times current and accessible.

(c) **REGISTRY.**—The registry established under this section shall—

(1) include the name, address, and other identifying information of each insurance agent or financial advisor that, at such time, is barred, banned, or otherwise limited in any manner that is not generally applicable to all such agents or advisors with respect to doing business on any or all military installations of the United States; and

(2) be easily accessible and searchable by—

(A) appropriate personnel for purposes of enforcing any such bar, ban, or limitation; and

(B) appropriate Federal and State agencies responsible for financial and insurance regulation.

(d) NOTICE TO FINANCIAL REGULATORS.—The Secretary shall promptly notify the appropriate Federal and State agencies responsible for financial and insurance regulation, upon the inclusion or removal of an insurance agent or financial advisor in or from the registry established under this section, of such inclusion or removal, respectively.

(e) APPEALS.—The Secretary shall provide for any such agent or advisor to appeal to the Secretary their erroneous inclusion in such registry and for a prompt determination of any such appeal.

(f) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall issue regulations in accordance with this subsection providing for—

(A) the establishment and maintenance of the registry under this section; and

(B) the establishment and operation of the procedure for appeals under subsection (e).

(2) PROPOSED REGULATIONS AND SUBMISSION TO CONGRESS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate Committees a copy of the regulations under this subsection that are proposed to be published for comment. The Secretary may not publish such regulations for comment in the Federal Register until the expiration of the 15-day period beginning upon such submission to the appropriate Committees.

(3) FINAL REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate Committees a copy of the regulations under this section to be published as final, which shall become effective upon the expiration of the 30-day period beginning upon submission to the appropriate Committees.

(g) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE COMMITTEES.—The term “appropriate Committees” means—

(A) the Committee on Financial Services and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

(2) MILITARY INSTALLATION.—The term “military installation of the United States” includes installations located outside of the United States.

(3) SECRETARY.—The term “Secretary” means the Secretary of Defense.

SEC. 12. SENSE OF CONGRESS.

It is the sense of the Congress that the Federal and State agencies responsible for insurance and securities regulation should provide advice to the appropriate Federal entities to consider—

(1) significantly increasing the life insurance coverage made available through the Federal Government to members of the Armed Forces;

(2) implementing appropriate procedures to encourage members of the Armed Forces to improve their financial literacy and obtain objective financial counseling before purchasing additional life insurance coverage or investments beyond those provided by the Federal Government; and

(3) improving the benefits and matching contributions provided under the Thrift Savings Plan to members of the Armed Forces.

SEC. 13. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ENTITY.—The term “entity” includes insurers.

(2) INDIVIDUAL.—The term “individual” includes insurance agents and producers.

(3) NAIC.—The term “NAIC” means the National Association of Insurance Commissioners.

(4) STATE INSURANCE COMMISSIONER.—The term “State insurance commissioner” means, with respect to a State, the officer, agency, or other entity of the State that has primary regulatory authority over the business of insurance and over any person engaged in the business of insurance, to the extent of such business activities, in such State.

PURPOSE AND SUMMARY

H.R. 5011, the Military Personnel Financial Services Protection Act, will protect military services members from the sale of questionable financial products, curb abusive sales practices on military installations, and ensure regulatory oversight of financial services sales on military installations. Specifically, H.R. 5011 bans the sale of contractual plans, requires written disclosures in conjunction with certain on-installation sales or solicitations, encourages the development of improved products for military personnel, and improves regulatory oversight by coordinating and encouraging contact among insurance companies, Federal and State regulators, and the Secretary of Defense.

To further protect military personnel, a registry of barred and banned agents will be established and maintained by the Secretary of Defense, and the registry information is to be made readily available to the appropriate Federal and State regulators. The Secretary of Defense is directed to notify the appropriate regulatory authorities when an individual is added to or removed from the registry.

BACKGROUND AND NEED FOR LEGISLATION

There is an extensive history of abusive and misleading marketing and sales of financial services products on military installations. Problems have included abusive and coercive sales tactics, expensive and outdated products, and a lack of uniform regulatory oversight for on-installation sales.

A Pentagon-commissioned study by General Thomas Cuthbert and a separate Navy Judge Advocate General Corps report by Lt. Wayne Hildreth documented the problem of abusive sales practices of life insurance agents on military installations both domestically and abroad (Final Report, Insurance Solicitation on Department of Defense Installations, May 15, 2000; Litigation Report Investigation of NCOA Standard Procedures For Selling Insurance, November 19, 1997). These reports detailed improper solicitation on installation, using fraternal military organizations to sell insurance products, a lack of uniform oversight or regulation of insurance sales on installation, and routine and systemic violations of Department of Defense rules. These reports were followed by a series of articles in the New York Times in the summer of 2004 that alleged abusive sales practices on several military installations throughout the country and overseas.

A 1986 Department of Defense Directive limits personal commercial solicitations to licensed and approved entities with specific appointments (DoD Directive 1344.7, Sect. 6.1). The Directive prohibits, among other practices, solicitation of recruits, trainees, and transient personnel in a "mass" or "captive" audience, using misleading advertising and sales literature, and giving the appearance that the Department of Defense endorses any particular company (DoD Directive 1344.7, Sect. 6.4). Despite these prohibitions, according to the New York Times, "agents have made misleading pitches to 'captive' audiences * * * posed as counselors on veterans benefits and independent financial advisers [and] solicited soldiers in their barracks or while they were on duty, [which are all] violations of Defense Department regulations." ("Basic Training Doesn't

Guard Against Insurance Pitch to G.I.'s", Diana Henriques, New York Times, July 20, 2004.)

Witnesses at a September 9, 2004 Capital Markets subcommittee hearing on military personnel finances criticized the sales practices documented by the New York Times articles. Mr. David F. Woods, CEO of the National Association of Insurance and Financial Advisors, testified that, "We condemn * * * deceptive, and unethical sales practices and have consistently worked to eliminate them from sales on and off base." (Hearing entitled "G.I. Finances: Protecting Those Who Protect Us" before the House Subcommittee on Capital Markets, September 9, 2004, written testimony of David F. Woods, p. 3). In addition to criticizing the sales practices, witnesses before the Subcommittee discussed the lack of regulatory oversight for on-installation sales. As another witness testified, "We are convinced that the reason these issues continue to come up is because of the lack of clarity over who has the authority to oversee such sales and the absence of clear procedures to ensure the highest standards for dealing with men and women in uniform." (Hearing, written testimony of Hon. Frank Keating, President and CEO, American Council of Life Insurers, p. 4.)

In addition to improper and unethical sales practices, witnesses at the Subcommittee hearing criticized the securities and life insurance products being sold, suggesting that better investments were available for any individual and the products were particularly unsuitable for most members of the armed services. For example, Ms. Elizabeth Jetton, President of the Financial Planning Association, testified that the American Amicable Insurance Company's sales tactic of pitching insurance as a retirement vehicle was "misguided and misleading" and that "any disinterested third party would have a very difficult time justifying [such] insurance as a rational retirement investment for the typical serviceman." (Hearing, written testimony of Ms. Elisabeth W. Jetton, CFP, on behalf of the Financial Planning Association, p. 5.) Mr. Mercer Bullard, President and Founder of Fund Democracy, testified that, "it is particularly offensive that insurance agents peddle overpriced, unsuitable products to the men and women who daily put their lives on the line for America's defense * * *". (Hearing, written testimony of Mr. Mercer E. Bullard, President of Fund Democracy, Inc. and Assistant Professor of Law, University of Mississippi School of Law, p. 3.)

The Subcommittee investigation in preparation for the hearing revealed that one financial services company was targeting military personnel with the sale of contractual plans (or periodic payment plans), an obscure financial product invested in mutual funds. These plans largely disappeared from the civilian market over two decades ago due to their excessive sales charges and the emergence of low-cost competitive products. In fact, in a mutual fund market that has over 7 trillion dollars invested, these plans account for only approximately 11 billion dollars of which 90 percent are held by military personnel. The plans have first-year sales charges of 50 percent, an astronomical figure considering that the average sales charges on mutual fund sales rarely exceed 6.5 percent, and it is uncommon for any investor in the civilian market to pay more than 6 percent in the first year. (Hearing, Jetton, p. 7.)

HEARINGS

The Subcommittee on Capital Markets, Insurance and Government Sponsored Entities held a hearing on financial practices and sales to the military entitled “G.I. Finances: Protecting Those Who Protect Us” on September 9, 2004. The Subcommittee received testimony from the following witnesses: Specialist Brandon Conger, United States Army; Ms. Elizabeth W. Jetton, President, Financial Planning Association; Mr. Mercer Bullard, Founder and Chief Executive Officer, Fund Democracy, Inc.; Mr. Lamar C. Smith, Chairman and Chief Executive Officer, First Command Financial Planning, Inc.; Mr. Joe W. Dunlap, Executive Vice President, American Amicable Life Insurance Company of Texas; Mr. David Woods, Chief Executive Officer, National Association of Insurance and Financial Agents; Hon. Frank Keating, President and Chief Executive Officer, American Council of Life Insurers.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on September 29, 2004 and ordered H.R. 5011, the Military Personnel Financial Services Protection Act, favorably reported to the House with an amendment by a record vote of 68 yeas and no nays (Record vote no. 25).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a record vote of 68 yeas and no nays (Record vote no. 25). The names of members voting for and against follow.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Oxley	X	.....	.....	Mr. Frank (MA)	X	.....	.....
Mr. Leach	X	.....	.....	Mr. Kanjorski	X	.....	.....
Mr. Baker	X	.....	.....	Ms. Waters	X	.....	.....
Mr. Bachus	X	.....	.....	Mr. Sanders	X	.....	.....
Mr. Castle	X	.....	.....	Mrs. Maloney	X	.....	.....
Mr. King	X	.....	.....	Mr. Gutierrez	X	.....	.....
Mr. Royce	X	.....	.....	Ms. Velázquez	X	.....	.....
Mr. Lucas (OK) .....	.....	.....	.....	Mr. Watt	X	.....	.....
Mr. Ney	X	.....	.....	Mr. Ackerman	X	.....	.....
Mrs. Kelly	X	.....	.....	Ms. Hooley (OR)	X	.....	.....
Mr. Paul .....	.....	.....	.....	Ms. Carson (IN)	X	.....	.....
Mr. Gillmor	X	.....	.....	Mr. Sherman	X	.....	.....
Mr. Ryun (KS)	X	.....	.....	Mr. Meeks (NY)	X	.....	.....
Mr. LaTourette	X	.....	.....	Ms. Lee	X	.....	.....
Mr. Manzullo	X	.....	.....	Mr. Inslee	X	.....	.....
Mr. Jones (NC)	X	.....	.....	Mr. Moore	X	.....	.....
Mr. Ose	X	.....	.....	Mr. Capuano	X	.....	.....
Mrs. Biggert	X	.....	.....	Mr. Ford	X	.....	.....
Mr. Green (WI)	X	.....	.....	Mr. Hinojosa	X	.....	.....
Mr. Toomey	X	.....	.....	Mr. Lucas (KY)	X	.....	.....
Mr. Shays	X	.....	.....	Mr. Crowley	X	.....	.....
Mr. Shadegg	X	.....	.....	Mr. Clay	X	.....	.....
Mr. Fossella	X	.....	.....	Mr. Israel	X	.....	.....
Mr. Gary G. Miller (CA)	X	.....	.....	Mr. Ross	X	.....	.....
Ms. Hart	X	.....	.....	Mrs. McCarthy (NY)	X	.....	.....
Mrs. Capito	X	.....	.....	Mr. Baca	X	.....	.....
Mr. Tiberi	X	.....	.....	Mr. Matheson	X	.....	.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Kennedy (MN)	X	.....	.....	Mr. Lynch	X	.....	.....
Mr. Feeney	X	.....	.....	Mr. Miller (NC)	X	.....	.....
Mr. Hensarling	X	.....	.....	Mr. Emanuel	X	.....	.....
Mr. Garrett (NJ)	X	.....	.....	Mr. Scott (GA)	X	.....	.....
Mr. Murphy	X	.....	.....	Mr. Davis (AL)	X	.....	.....
Ms. Ginny Brown-Waite (FL)	X	.....	.....	Mr. Bell	X	.....	.....
Mr. Barrett (SC)	X	.....	.....				
Ms. Harris	X	.....	.....				
Mr. Renzi	X	.....	.....				
Mr. Gerlach	X	.....	.....				

* Mr. Sanders is an independent, but caucuses with the Democratic Caucus.

The following amendments were considered by the Committee:

An amendment in the nature of a substitute by Mr. Oxley, no. 1, providing investors with access to information on disciplinary actions regarding broker dealers, clarifying State jurisdiction for sales on overseas military installations, encouraging States to develop sales protection standards, requiring additional disclosures, and requiring reporting of agent disciplinary actions, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute by Mr. Ryun, no. 1a, requiring the Secretary of Defense to establish and maintain a registry of all agents and financial advisors that have been barred or banned from doing business on a military installation that is easily accessible and searchable by the appropriate authorities, was agreed to by a voice vote.

An amendment to the amendment offered by Mr. Ryun by Mr. Israel, no. 1a1, requiring the Secretary of Defense to promptly notify the appropriate Federal and State regulators upon the inclusion or removal of an insurance agent or financial advisor from the registry, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute by Mr. Kanjorski, no. 1b, amending the findings, was withdrawn.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The Secretary of Defense and State and Federal financial regulators will use the authority granted by this legislation to protect members of the military from abusive sales practices on military installations. Further, the Secretary of Defense will use the authority granted by this legislation to create and maintain a registry of agents and broker/dealers who have been banned or barred from selling financial services products on military installations.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that this legislation

would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 4, 2004.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5011, the Military Personnel Financial Services Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Melissa E. Zimmerman (for federal costs), and Sarah Puro (for the state and local impact).

Sincerely,

ROBERT A. SUNSHINE
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 5011—Military Personnel Financial Services Protection Act

H.R. 5011 would ban the sale of mutual funds sold through contractual plans. The bill also would require insurance companies to provide certain notices about insurance policies offered by the U.S. government when selling an insurance policy to servicemembers or while marketing on military installations. The bill would require the Department of Defense to maintain a list of agents and advisors barred from doing business on military installations. Finally, the bill would amend securities law to require registered securities associations to provide public access to certain consumer information and to file certain financial information with the Securities and Exchange Commission.

CBO estimates that implementing H.R. 5011 would not result in a significant cost to the federal government and would not affect direct spending or revenues.

H.R. 5011 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), and any costs to state, local, or tribal government would be voluntary. The bill would encourage state insurance regulators to coordinate with the Department of Defense in order to protect military personnel from predatory life insurance schemes. Based on information from state

insurance commissioners, CBO estimates that the costs of such co-operation would not be significant.

H.R. 5011 would impose private-sector mandates as defined in UMRA on registered investment companies, registered securities associations, investment advisors, and those selling life insurance products to members of the Armed Forces on military installations of the United States. CBO's estimate of the cost of those private-sector mandates will be detailed in a separate statement.

The CBO staff contacts for this estimate are Melissa E. Zimmerman (for federal costs), and Sarah Puro (for the state and local impact. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EXCHANGE OF COMMITTEE CORRESPONDENCE

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 4, 2004.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
Rayburn House Office Building.

DEAR MR. CHAIRMAN: On September 29, 2004, the Committee on Financial Services reported H.R. 5011, a bill to prevent the sale of abusive insurance and investment products to military personnel. As you know, H.R. 5011, as ordered reported, contained provisions within the jurisdiction of the Committee on Armed Services.

Because of your willingness to consult with this Committee, and because of your desire to move this legislation expeditiously, I will waive consideration of the bill by the Committee on Armed Services. By agreeing to waive this consideration of the bill, the Committee does not waive its jurisdiction over H.R. 5011. In addition,

should a conference be convened on this legislation, the Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction. I ask for your commitment to support any request for conferees by the Committee on H.R. 5011 or similar legislation.

I request that you include this letter and your response in the Congressional Record during your consideration of the legislation on the House floor. Thank you for your consideration of these matters.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, October 4, 2004.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HUNTER: Thank you for your recent letter regarding your committee's jurisdictional interest in H.R. 5011, the Military Personnel Financial Services Protection Act. I appreciate all of your efforts to expedite consideration of this important legislation.

I acknowledge your committee's jurisdictional interest in section 11 of the bill as ordered reported by the Committee on Financial Services and appreciate your cooperation in allowing speedy consideration of the legislation. I agree that your decision to forego further action on the bill will not prejudice the Committee on Armed Services with respect to its jurisdictional prerogatives on this or similar legislation. I will support your request for an appropriate number of conferees should there be a House-Senate conference on this or similar legislation.

Finally, I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your assistance.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title for the bill, the "Military Personnel Financial Services Protection Act".

Section 2. Congressional findings

The section sets forth certain Congressional findings describing the need to protect members of the Armed Forces from the sale of inappropriate financial products and from abusive and misleading sales tactics.

Section 3. Prohibition on future sales of periodic payment plans

This section amends section 27 of the Investment Company Act of 1940 by prohibiting both the issuance of periodic payment plan certificates by registered investment companies and the sales of periodic payment plan certificates by registered investment companies and the depositors and underwriters of such companies. This section does not alter, invalidate, or affect the rights or obligations under any periodic payment plan certificates issued before the aforementioned prohibition takes effect.

Section 4. Method of maintaining broker/dealer registration, disciplinary, and other data

This section amends section 15A(i) of the Securities Exchange Act of 1934, which requires a registered securities association to maintain a toll-free telephone listing to receive inquiries regarding disciplinary actions involving its members and their associated persons, and to respond to those inquiries in writing. The amended language requires a registered securities association to establish a system to collect and maintain registration information, and to establish an easily accessible electronic or other process (in addition to the toll-free telephone listing) to respond to inquiries about registration information.

Registration information will be collected on the association's members and their associated persons, as well as the members and associated persons of any registered national securities exchange that uses the system for the registration of such persons. The association may charge persons making inquiries, other than an individual investor, reasonable fees for producing a response.

The registered securities association, in consultation with the participating registered national securities exchanges, also will be required to adopt rules on the process for making inquiries and responses, and on the establishment of an administrative process for disputes that may arise concerning the accuracy of information given in responses to inquiries. As under current law, the association and participating exchanges will not be liable to any persons for actions taken or omitted in good faith under this provision.

Section 5. Filings depositories for investment advisors

This section reorganizes and codifies in the Investment Advisers Act of 1940 provisions of the National Securities Markets Improvement Act of 1996, in which Congress directed the Commission to establish an electronic filing system, and mandated the creation of a public disclosure program, for investment advisers. Pursuant to this directive, the Commission designated the NASD to operate the electronic filing system for investment advisers, which is called the Investment Adviser Registration Depository, and created an Internet-based public disclosure program containing investment adviser registration and disciplinary information.

This section codifies this arrangement, although it requires a toll-free telephone listing, or electronic means, for receiving and responding to inquiries for registration information.

The new provision recognizes that the NASD also operates the public disclosure program on behalf of the Commission and conforms the Investment Advisers Act provision to the terms of the Securities Exchange Act of 1934 so that the NASD has immunity

from liability for actions taken in good faith in operating the investment adviser public disclosure program.

Section 6. State insurance jurisdiction on military installations

This section clarifies State jurisdiction over the regulation of the business of insurance as conducted on Federal land or facilities in the United States and abroad, including military installations. State insurance jurisdiction will generally apply to all private insurance activities on Federal land, except to the extent there is direct conflict with applicable and authorized Federal rules or where a State law would not apply to the activity even if it were being conducted on State land.

To the extent there is a conflict among State laws that would apply to insurance activities conducted on Federal land, the section provides that the State law that has priority (and primary enforcement responsibility) is that of the State within which the Federal land is located. If the Federal land or facility is located outside of the United States (such as in a foreign country), then the State with primary jurisdiction is the State that primarily regulates the individual or entity engaged in the insurance activity. For the regulation of any activity involving an insurance producer (e.g., agent or broker), where the producer is licensed in multiple States and there is a conflict among the laws of those States, the law of the State that issued the producer's resident license applies and that State is primarily responsible for enforcing its laws against that producer. For the regulation of any activity involving any other insurance entity where there is a conflict among State laws that would otherwise apply, such as questions regarding an insurance product from an insurer licensed in multiple States, then the law of the State of the entity's domicile applies and that State is primarily responsible for enforcing its laws against that entity.

These provisions are intended to ensure that there are no gaps between Federal and State insurance protections for military personnel, that States are able and required to enforce their insurance laws with respect to private insurance activities on Federal land, and that there is always at least one State that is recognized as responsible for regulating any private insurance activity conducted on Federal land.

Section 7. Required development of military personnel protection standards regarding insurance sales

This section expresses the intent of Congress that the States collectively work together with the Secretary of Defense to ensure that there are appropriate standards implemented to protect members of the military from dishonest and predatory insurance sales practices while on military installations. The goal of this provision is to promote the development, identification, and implementation of uniform and coordinated protection standards to ensure that members of the military are not exposed to abusive sales tactics on military installations. The Committee intends the National Association of Insurance Commissioners (NAIC) (or NCOIL or similar organization of States) to work collaboratively with the Secretary to determine the appropriate regulatory division of insurance protections, under whose jurisdiction each protection should be implemented, and how each protection should be enforced in a coordi-

nated and uniform manner to avoid regulatory gaps or inappropriate inconsistencies.

To achieve the goal of this section, the Committee expects that each State will identify its role in promoting these uniform standards within 12 months of the date of enactment of this legislation. The NAIC is expected to work with the Secretary of Defense to determine to what extent the States have implemented appropriate and uniform protection standards, and submit a report on how these goals have been met to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The Committee intends that this report will include a description of the work of the States and the Secretary in balancing responsibilities to ensure coordinated and uniform implementation to avoid any gaps in protecting our military personnel from inappropriate insurance products and sales practices.

Section 8. Required disclosures regarding life insurance

The purpose of this section is to ensure that no life insurance is sold to a member of the Armed Forces pursuant to an on-installation solicitation unless certain written disclosures are made first. If an insurer or producer solicits insurance on a military installation, then before the sale of the insurance, the insurer or producer must disclose to the consumer that the Federal Government has not sanctioned, recommended, or encouraged the sale of the product and that subsidized life insurance may be available from the Federal Government. If the solicitation is occurring on Federal land outside of the United States, then the disclosure must also include the address and phone numbers where consumer complaints are received by the appropriate State insurance departments (that primarily regulate the producer and insurer selling the product). The disclosure must be made in plain and readily understandable language in a type font at least as large as the font used for the majority of the policy. These written disclosures will help to ensure that members of the armed forces make an informed decision before purchasing private life insurance after having been solicited on a military installation.

Penalties have been provided as an enforcement tool for the intentional failure to provide written disclosures. If it is determined by a State or Federal agency, or in a final court proceeding, that the individual or entity intentionally failed to provide a disclosure as required by this section, then that individual or entity will be prohibited from engaging in the business of insurance on Federal facilities. These penalties do not apply to insurance activities that are specifically contracted by or through the Federal or any State Government or are specifically exempted from the applicability of this legislation by Federal or State law, regulation, or order that specifically refers to this section.

States are encouraged to develop and adopt, in materially identical form, a standard setting forth the requirements for disclosures under this section that apply to the business of insurance as sold to military personnel on military installations. The goal is to make this section dynamic to respond to future developments and to allow the States to develop their own standards. If standards are developed by a majority of the States, then those standards will

apply in lieu of the requirements of this section for activities governed by those States (so long as there is no direct conflict with any Federal requirement other than this section). For purposes of this provision, the term “materially identical form” means that with respect to a particular activity in question, the exact same conduct is required or prohibited or otherwise regulated in exactly the same manner. The disclosures required by the majority of States may differ from or exceed the disclosures provided for in this section, as long as such disclosures are uniform in all material respects across all those States.

Section 9. Improving life insurance product standards

This section requests that the NAIC work with the Secretary of Defense to study and report to Congress on ways to improve the quality and sale of life insurance products sold by insurers and life insurance agents on military installations. This section is intended to focus the States and the Secretary on stopping not only abusive and misleading sales practices, but also inappropriate products from being sold to the men and women protecting the United States. Among other solutions, Congress intends that the study consider limiting sales authority to companies and producers that are certified as meeting appropriate best practices (such as the Insurance Marketplace Standards Association), and developing appropriate standards to stop bad products from being targeted to military personnel regardless of whether they are on or off installation. If the NAIC does not submit the report to the Committees of jurisdiction as directed by this section, then the Comptroller General of the United States must report to Congress on any proposals that have been made by relevant parties to improve the quality and sale of life insurance products sold to military personnel.

Section 10. Required reporting of disciplined insurance agents

This section effectively requires insurers whose producers are soliciting life insurance on military installations to implement a system to report to the appropriate insurance department any disciplinary actions taken against any of those producers by the military that the insurer is aware of, as well as any significant disciplinary action imposed by the insurer. The term “significant” is intended by the Committee to distinguish disciplinary actions for infractions that have bearing on the likelihood of a producer to engage in improper sales activities as opposed to minor actions that have no bearing on the producer’s integrity or conduct and that would not otherwise be appropriate to report to a State.

This section also expresses the intent of Congress that the States collectively implement a system to receive reports of disciplinary actions taken against producers with respect to sales on military installations, and to disseminate information on disciplinary actions among themselves and the Secretary of Defense.

These provisions, along with section 11, are intended to prevent life insurance producers disciplined at one military installation from continuing to sell insurance at other Federal facilities, by ensuring that information on disciplinary actions against producers is being effectively communicated among all the relevant parties. The Committee expects the States to fulfill the requirements of this section by using the Producer Database (PDB) system of the National

Insurance Producer Registry, a non-profit affiliate of the NAIC that most State insurance departments rely on to both share information regarding the licensing status of producers and make that information available to insurers. The Committee intends that all States utilize the PDB or a similar system, and improve PDB to be able to receive and share relevant information on producer licensing status with the Secretary of Defense.

Section 11. Registry of barred insurance agents and financial advisors

This section directs the Secretary of Defense to create and maintain a registry of banned or barred financial advisors and life insurance agents. The Secretary of Defense will be responsible for updating and maintaining the registry, which will provide the name, address, and other identifying information of the banned or barred agent or advisor. The registry must be accessible and searchable by local installation commanders and appropriate Federal and State financial regulators.

The Secretary of Defense is further required to promptly notify the appropriate Federal and State regulators when an individual has been added to or removed from the registry. The Secretary of Defense is also responsible for implementing an appeal process, and for issuing regulations to ensure the maintenance and operation of the registry.

The Committee intends this section to provide local installation commanders with adequate information to make access determinations for life insurance producers. The Committee expects the Secretary to fulfill the notification requirement by providing and receiving information through an electronic system networked with the NAIC's PDB or other similar system established by the States pursuant to section 10, as well as any similar systems created by the Securities and Exchange Commission or the NASD, to ensure that installation commanders, the Secretary, the appropriate securities and insurance regulators, and financial companies share information regarding disciplinary actions taken against producers and advisors to prevent the migration of rogue salespersons.

Section 12. Sense of Congress

This section indicates the sense of Congress that the Federal and State agencies responsible for regulation of insurance and securities should provide advice to the appropriate Federal entities to consider significantly increasing the life insurance coverage made available through the Federal Government to members of the military, encouraging greater financial literacy and objective financial counseling for military service members, and improving the benefits and matching contributions under the Thrift Savings Plan for military personnel.

Section 13. Definitions

This section defines certain terms used in the legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 27 OF THE INVESTMENT COMPANY ACT OF 1940

PERIODIC PAYMENT PLANS

SEC. 27. (a) * * *

* * * * *

(i)(1) * * *

(2) It shall be unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contract unless—

(A) such contract is a redeemable security; and

(B) the insurance company complies with section [26(e)] 26(f) and any rules or regulations issued by the Commission under section [26(e)] 26(f).

(j) *TERMINATION OF SALES.*—

(1) *TERMINATION.*—*Effective 30 days after the date of enactment of the Military Personnel Financial Services Protection Act, it shall be unlawful, subject to subsection (i)—*

(A) *for any registered investment company to issue any periodic payment plan certificate; or*

(B) *for such company, or any depositor of or underwriter for any such company, or any other person, to sell such a certificate.*

(2) *NO INVALIDATION OF EXISTING CERTIFICATES.*—*Paragraph (1) shall not be construed to alter, invalidate, or otherwise affect any rights or obligations, including rights of redemption, under any periodic payment plan certificate issued and sold before 30 days after such date of enactment.*

SECTION 15A OF THE SECURITIES AND EXCHANGE ACT OF 1934

REGISTERED SECURITIES ASSOCIATIONS

SEC. 15A. (a) * * *

* * * * *

[(i) A registered securities association shall, within one year from the date of enactment of this section, (1) establish and maintain a toll-free telephone listing to receive inquiries regarding disciplinary actions involving its members and their associated persons, and (2) promptly respond to such inquiries in writing. Such association may charge persons, other than individual investors, reasonable fees for written responses to such inquiries. Such an association shall not have any liability to any person for any actions taken or omitted in good faith under this paragraph.]

(i) *OBLIGATION TO MAINTAIN REGISTRATION, DISCIPLINARY AND OTHER DATA.*—

(1) *MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.*—*A registered securities association shall—*

(A) establish and maintain a system for collecting and retaining registration information;

(B) establish and maintain a toll-free telephone listing, and a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding—

(i) registration information on its members and their associated persons; and

(ii) registration information on the members and their associated persons of any registered national securities exchange that uses the system described in subparagraph (A) for the registration of its members and their associated persons; and

(C) adopt rules governing the process for making inquiries and the type, scope, and presentation of information to be provided in response to such inquiries in consultation with any registered national securities exchange providing information pursuant to subparagraph (B)(ii).

(2) *RECOVERY OF COSTS.*—Such an association may charge persons making inquiries, other than individual investors, reasonable fees for responses to such inquiries.

(3) *PROCESS FOR DISPUTED INFORMATION.*—Such an association shall adopt rules establishing an administrative process for disputing the accuracy of information provided in response to inquiries under this subsection in consultation with any registered national securities exchange providing information pursuant to paragraph (1)(B)(ii).

(4) *LIMITATION OF LIABILITY.*—Such an association, or an exchange reporting information to such an association, shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.

(5) *DEFINITION.*—For purposes of this subsection, the term “registration information” means the information reported in connection with the registration or licensing of brokers and dealers and their associated persons, including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law, or exchange or association rule, and the source and status of such information.

* * * * *

INVESTMENT ADVISERS ACT OF 1940

TITLE II—INVESTMENT ADVISERS

* * * * *

SEC. 203A. STATE AND FEDERAL RESPONSIBILITIES.

(a) * * *

* * * * *

[(d) *FILING DEPOSITORIES.*—The Commission may, by rule, require an investment adviser—

[(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any entity designated by the Commission for that purpose; and

[(2) to pay the reasonable costs associated with such filing.]

[(e)] (d) STATE ASSISTANCE.—Upon request of the securities commissioner (or any agency or officer performing like functions) of any State, the Commission may provide such training, technical assistance, or other reasonable assistance in connection with the regulation of investment advisers by the State.

ANNUAL AND OTHER REPORTS

SEC. 204. [Every investment] (a) *IN GENERAL.*—Every investment adviser who makes use of the mails or of any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser (other than one specifically exempted from registration pursuant to section 203(b) of this title), shall make and keep for prescribed periods such records (as defined in section 3(a)(37) of the Securities Exchange Act of 1934), furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. All records (as so defined) of such investment advisers are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

(b) *FILING DEPOSITORIES.*—The Commission may, by rule, require an investment adviser—

(1) to file with the Commission any fee, application, report, or notice required to be filed by this title or the rules issued under this title through any entity designated by the Commission for that purpose; and

(2) to pay the reasonable costs associated with such filing and the establishment and maintenance of the systems required by subsection (c).

(c) *ACCESS TO DISCIPLINARY AND OTHER INFORMATION.*—

(1) *MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.*—The Commission shall require the entity designated by the Commission under subsection (b)(1) to establish and maintain a toll-free telephone listing, or a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law or rule to be reported) involving investment advisers and persons associated with investment advisers.

(2) *RECOVERY OF COSTS.*—An entity designated by the Commission under subsection (b)(1) may charge persons making inquiries, other than individual investors, reasonable fees for responses to inquiries made under paragraph (1).

(3) *LIMITATION ON LIABILITY.*—An entity designated by the Commission under subsection (b)(1) shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.

* * * * *

**SECTION 306 OF THE NATIONAL SECURITIES MARKETS
IMPROVEMENT ACT OF 1996**

[SEC. 306. INVESTOR ACCESS TO INFORMATION.

[The Commission shall—

[(1) provide for the establishment and maintenance of a readily accessible telephonic or other electronic process to receive inquiries regarding disciplinary actions and proceedings involving investment advisers and persons associated with investment advisers; and

[(2) provide for prompt response to any inquiry described in paragraph (1).]

SUPPLEMENTAL VIEWS

The Financial Services Committee should be commended for moving promptly to examine reports that certain financial products are being sold inappropriately to our military personnel. An article in the New York Times last week indicates that one of the companies that testified at the Sept. 9 hearing is already in the process of making refunds.

However, I am concerned that the Military Personnel Financial Services Protection Act (H.R. 5011) does little to directly address abuses by those who sell insurance on bases to soldiers at formations or other mass meetings. Instead, the bill enacts a complete prohibition on so-called contractual or periodic payment mutual funds, which, according to the testimony received, are sold voluntarily with full disclosure to officers at individual meetings held off base.

This is the first time in recent memory that this committee has ever proposed banning a product that is fully permissible under current law and that—again according to testimony received by the committee—is used by thousands of senior military officials to facilitate their financial security. Specifically, we have been told that the clients of First Command Financial Planning, the Texas-based company principally involved in this market, has invested \$734.4 million aggregate in these accounts in just the last 12 months. The sales charge on that amount was about \$44 million, or about six percent. What is the basis for outlawing a product that over half a million individuals, including half the flag officers currently on active duty, have freely chosen? Do we really believe that individuals charged with the deployment of billions of dollars of military equipment, are not sophisticated enough to make their own financial decisions?

When the Congress last looked at this product in 1970, we recognized periodic payment mutual funds are a valuable means to help encourage savings by people who do not have large amounts of discretionary income. I see no evidence in the record indicating that the judgment then was incorrect. In fact, testimony we recently received indicates that these periodic payment mutual funds are working for those military members choosing to utilize them.

Before voting on H.R. 5011, Congress should consider whether it is in the best interests of our armed services to substitute our judgment for theirs by banning a financial product that the armed services' deem well-suited for their financial security.

RON PAUL.

