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THE TERM-ONLY LICENSE PROPOSAL AND THE CITIGROUP/PRIMERICA CULTURE

by Joseph M. Belth and Alan Press

Citigroup Inc. is a large financial services holding company. The fines and settlements paid by some of its subsidiaries suggest the firms have engaged in predatory or abusive lending activities that exploit middle and lower income consumers, many of whom are unsophisticated in their borrowing activities.

Primerica Financial Services ("PFS"), formerly the A. L. Williams organization ("ALW"), is a large, national insurance agency. PFS agents represent Primerica Life Insurance Company ("Primerica"), formerly Massachusetts Indemnity and Life Insurance Company ("MILICO"). We have written many articles critical of the activities of ALW/MILICO and PFS/Primerica. Much of our criticism has been directed at activities we consider predatory because they exploit middle and lower income consumers, many of whom are unsophisticated in insurance.

When Citigroup acquired Primerica in the late 1980s, we viewed the arrangement as a marriage of two organizations with similar cultures. We think Primerica's term-only license proposal is another effort to exploit middle and lower income consumers.

The Term-Only License Proposal

Primerica has proposed and has lobbied hard for state laws creating a special agent's license for term life insurance only. The proposal would allow individuals to obtain a term-only license with significantly reduced pre-licensing educational requirements.

Peter W. Schneider, senior vice president and general counsel of Primerica, is leading the term-only license campaign. The proposal is being presented as a humanitarian effort to assist middle and lower income consumers, who are not being served adequately by life insurance agents. For example, here is a statement attributed to Mr. Schneider in the March 7 issue of the *National Underwriter*:

> **We took a look at what the industry is doing with respect to serving the middle and lower income consumer. The life industry is basically not doing it. The reason they [middle and lower income consumers] are not purchasing insurance is that there are no life insurance agents in their neighborhood. There needs to be a different kind of license for term insurance that would allow agents to serve this market.**

The term-only license proposal is *not* a humanitarian effort to assist middle and lower income consumers. It is the opposite. We think it is a cynical effort to exploit middle and lower income consumers.

The Views of Industry Organizations

Several organizations have studied Primerica's term-only license proposal. Some have taken a position on it, and some have not.

On March 14, 2005, the Market Regulation and Consumer Affairs Committee of the National Associ-

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ation of Insurance Commissioners ("NAIC") adopted a resolution that "rejects any and all proposals which directly or indirectly establish a limited line license for producers to sell term life insurance." The resolution is based in part on the need for "individuals selling, soliciting or negotiating insurance [to] have the minimum level of competency and knowledge to engage in such activities." The resolution is to be considered for adoption by the NAIC at its regular meeting in September 2005.

The National Association of Insurance and Financial Advisors ("NAIFA") opposes term-only licenses and supports the above NAIC proposed resolution. Here are NAIFA's reasons:

> • **Term life licenses will lower the bar for producer education and qualification by requiring less pre-licensing, license exam and continuing education requirements than are required for a full life insurance producer license.**
>
> • **Term life licenses will limit the products a term licensee can offer a consumer and enable such licensees to consult with consumers without an understanding of any life insurance products other than term. A term life license will not help underinsured communities obtain financial security. All consumers—rich and poor—deserve the help of knowledgeable producers who understand and can discuss any life insurance product that may meet their unique needs, not merely a producer who is licensed and trained to offer only term insurance.**
>
> • **Term life licenses will complicate the producer licensing system. By adding another limited line license with unique standards to the marketplace, the term life license concept conflicts with the NAIC's Producer Licensing Model Act and Uniform Resident Licensing Standards. Accordingly, term life licenses will undermine NAIC and industry efforts to promote uniform licensing standards and to reduce the confusing panoply of limited line licenses.**

The American Council of Life Insurers ("ACLI") has not taken a position on Primerica's term-only license proposal. The ACLI continues to study the matter. The committee doing so is co-chaired by Prudential and, ironically, Primerica. (A Prudential spokeswoman said Prudential has not taken a position on the proposal.) Here are the first two paragraphs of ACLI's four-paragraph statement dated June 6, 2005:

> **The ACLI believes that initiatives to reach underinsured markets should be encouraged and should receive careful consideration. For this reason, the ACLI has, through its committee structure, agreed to discuss the concept of the term license and its related policy and technical issues. The broad policy considerations presented by the term license concept are all very important and warrant the industry's careful consideration.**
>
> **To facilitate thoughtful consideration of these policy matters, proponents of legislation advancing the term life license have agreed to suspend their efforts this year. While our committee review process is under way, and so long as no legislation is actively under consideration, the ACLI has agreed to defer taking any position on the term life license concept.**

Citigroup and MetLife

Primerica is owned by Citigroup, which also owns such entities as Citibank, Smith Barney, and CitiFinancial. MetLife, Inc. owns Metropolitan Life, General American Life, New England Life, and other companies. On January 31, 2005, Citigroup and MetLife announced an agreement—consummated in June 2005—under which MetLife acquired Travelers Life & Annuity from Citigroup and undertook to make products available to Primerica's agents for the next ten years.

The Citigroup Culture

In 1986, Sanford I. Weill acquired Commercial Credit Company ("CCC"), a troubled subprime lender based in Baltimore. (At CCC he first worked with Charles Prince, who was CCC's general counsel. Last year, upon Mr. Weill's retirement, Mr. Prince became Citigroup's chief executive officer.) He turned CCC around, and built Citigroup through acquisitions. Along the way he changed the name of CCC to CitiFinancial Credit Company. He also acquired Associates First Capital Corporation, a subprime lender, and eventually merged Associates into CitiFinancial to create the world's largest subprime lender.

In 2001, the Federal Trade Commission ("FTC") filed a 26-page, 72-paragraph complaint against Citigroup, Associates, and CitiFinancial. In 2002, Citigroup paid $215 million to settle the charges. The settlement was the largest in the history of the FTC. The complaint alleged violations of the FTC Act ("misrepresentation of savings," "misrepresentation of loan amount," "misrepresentation of cost of credit insurance," "misrepresentation of insurance coverage," "failure to disclose cost and terms of credit insurance," "misrepresentation of credit insurance refund," and "unfair collection practices"), violations of the Truth in Lending Act, violations of the Equal Credit Opportunity Act's Regulation B, and violations of the Fair Credit Reporting Act. The complaint also discussed the "subprime" market for loans. Excerpts from the complaint are in the box on the next page. [*FTC v. Citigroup Inc. et al.*, U. S. District Court for the Northern District of Georgia, Atlanta Division, Civil No. 010CV-0606, filed March 6, 2001.]

The settlement with the FTC is one of several that have been entered into by Citigroup to end regulatory investigations and shareholder lawsuits. In 2003, Citigroup paid $400 million to settle federal and state

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charges of luring investors into buying shares of troubled companies, and $126.5 million in regulatory fines relating to its role in the collapse of Enron. In 2004, it paid a $70 million fine—the largest ever imposed by the Federal Reserve Board—for abusive lending practices in the subprime market and $2.58 *billion* to settle with shareholders over its role in the collapse of WorldCom. In 2005, it paid $75 million to settle with shareholders over its role in the collapse of Global Crossing, $26.25 million to settle charges by the Securities and Exchange Commission ("SEC") relating to nondisclosure of brokers' conflicts of interest, $208 million to settle SEC charges relating to denial of discounts for mutual fund investors, and $2 *billion* to settle with shareholders over its role in selling securities issued by Enron. In addition to its problems in the United States, Citigroup also has been facing regulatory problems in Germany, Italy, Japan, and the United Kingdom.

The PFS/Primerica Culture

One of the central activities of PFS/Primerica and ALW/MILICO has been the indiscriminate replacement of cash-value life insurance policies. In an article entitled "The A. L. Williams Replacement Empire" in the April 1981 issue of *The Insurance Forum*, the opinion was expressed that ALW was engaged in "the churning of life insurance" because its sales activities were "designed primarily for the purpose of channeling the cash values of existing life insurance policies directly into commissions for members of the ALW organization."

To accomplish indiscriminate replacements, PFS/Primerica and ALW/MILICO have utilized various deceptive practices. An example is comparing term insurance premiums to cash-value insurance premiums without taking account of the fundamental differences between those policy types. Another example is the omission of dividends from illustrations of the price structure of participating cash-value policies.

The above-mentioned article said ALW/MILICO offered a form of term insurance that was high-priced relative to other term insurance coverage readily available in the market. Indeed, the term insurance sold to consumers was far higher in price than another form of term insurance offered by ALW/MILICO itself. The high-priced (sold) term insurance paid large commissions, and the low-priced (unsold) term insurance paid small commissions.

Moreover, PFS/Primerica and ALW/MILICO have consistently encouraged consumers to pay for term insurance with monthly premiums paid through preauthorized withdrawals from checking accounts. (There have been estimates that more than 90 percent of their buyers pay premiums monthly.) The extra charges assessed in connection with the payment of monthly premiums are equivalent to an annual percentage rate ("APR") of *29.7 percent*. The APR is not disclosed, so that consumers are not made aware of the magnitude of the charges.

ALW/MILICO urged consumers to buy "Common Sense" mutual funds, which had large sales charges. Today PFS/Primerica urges consumers to buy mutual funds offered by Smith Barney—a unit of Citigroup—with large sales charges.

PFS/Primerica says its sales activities are designed to help middle and lower income consumers work their way out of debt so that they can acquire insurance protection and accumulate retirement assets. Supposedly the way to get out of debt is to consolidate it through the offerings of CitiFinancial, whose lending practices have already been discussed.

EXCERPTS FROM FTC COMPLAINT AGAINST CITIGROUP

(March 6, 2001)

12. The Associates provided consumer finance products and services primarily to the "subprime" market. The subprime market is comprised of persons who are considered to be greater credit risks and, thus, do not meet the strict underwriting standards required to qualify for prime, or "A," credit. Hence, the financing provided to such persons is also commonly referred to as "B/C" or "nonconforming" credit. Subprime lenders like The Associates make loans to borrowers with greater credit risk or perceived greater credit risk, including persons from lower-income or minority neighborhoods. Many such borrowers have difficulty obtaining financing from prime lenders. Moreover, traditional prime lenders, like banks, have been less likely to market their products, or maintain offices, in lower-income or minority neighborhoods.

13. To compensate for the perceived greater risk involved in extending financing to the subprime market, The Associates, like other subprime lenders, charged its customers prices that were substantially higher than those available to borrowers in the "A" market. This was reflected primarily in the higher interest rates and points (one point equals one percent of the amount financed on the loan) charged to such customers.

14. The Associates nurtured a relationship of trust in which customers were led to believe they could rely on The Associates for sound advice about organizing their finances. [*Editor's note*: The remainder of paragraph 14 shows several examples.]

15. In fact, The Associates engaged in numerous deceptive practices and other violations of law to induce consumers to take out or refinance loans with high interest rates, costs, and fees and to purchase high-cost credit insurance. [*Editor's note*: Paragraphs 16 through 29 of the complaint describe numerous examples of the "acts and practices" of the defendants.]

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Over the years ALW/MILICO and PFS/Primerica have been able to deflect insurance regulatory actions. The organizations are champions of the First Amendment, which they claim protects their harsh criticism of their competitors and their competitors' products. (They oppose the First Amendment when the shoe is on the other foot and someone criticizes them.) Also, they routinely retain politically powerful law firms to defend their practices. A classic example occurred in 1988, when the California insurance department filed a long series of accusations against ALW/MILICO. They hired two large law firms—one in Los Angeles and one in San Francisco—that assigned about a dozen attorneys to defend against the accusations in a one-week hearing before an administrative law judge. The department was represented by a single staff attorney. Although she was extremely competent and worked very hard on the case, she was overwhelmed. The accusations eventually were dismissed.

The Polling Survey

The Polling Company, Inc., based in Washington, DC, describes itself as "a full-service market research and consulting firm" and as "a privately-held, woman-owned corporation founded in 1995." Kellyanne Conway is the president and chief executive officer. Polling's clients have included the following organizations: the Microsoft Corporation, Philip Morris (now Altria), ABC News, American Express, Major League Baseball, Martha Stewart Living Omnimedia, Unilever, Cendant Corporation, Spelling Entertainment, New York Magazine, The New York Post, Ladies' Home Journal, Safeway Companies, Grocery Manufacturers of America, Americans for Tax Reform, Wyeth-Ayerst Laboratories, The Heritage Foundation, Golden Rule Insurance, the National Rifle Association, and "a number of political clients, committees and independent groups." Primerica is not among the currently listed clients.

On June 11, 2005, Polling issued a press release entitled "Survey Finds Minorities and Lower-Income Households Abandoned by Life Insurance Providers." The "Survey of Insurance Coverage" was mentioned in the June 6 issue of the *National Underwriter* in an article entitled "Limited License Proponents Find Ammo in Study." The article said the sources of some of the data were Polling and Primerica.

We obtained a four-page "Executive Summary" of the survey, but we were unable to obtain the survey itself. Therefore, we do not know what questions were asked or the sequence in which they were asked. Also, Polling refused to explain what prompted it to undertake this particular project at this particular time, or to indicate how the project was financed. Thus we do not know whether Primerica paid for the survey.

Some findings mentioned in the executive summary fail to support Primerica's term-only license proposal. One finding, for example, is that "Blacks were 2.5 times more likely and Hispanics were 3 times more likely than whites to want new information on the various insurance plans offered." Term-only licensees would not meet the suggested need, because they would not be qualified or even permitted to discuss anything other than term insurance.

Another finding is that "Low-income Americans were 9 percentage points more likely than the average respondent to have never met with a professional insurance agent regarding life insurance coverage." Term-only licensees would not meet the suggested need, because extensive insurance education is a prerequisite for "professional" agents.

Still another finding is that "Underserved Americans who earn $30,000 or less a year were 9 percentage points more likely than the average respondent to be 'very interested' in learning more about life insurance policies for their family." Term-only licensees would not meet the suggested need, because they would not be qualified or even permitted to discuss anything other than term insurance.

The Polling survey confirms the existence of a difficult and vexing problem on which everyone seems to agree: middle and lower income Americans, some of whom are minorities, are not adequately served by the life insurance industry. However, the weakening of license standards is not a solution to the problem. Rather, for the reasons explained in this article, the term-only license proposal continues what we believe is a pattern of exploitation of middle and lower income consumers long engaged in by PFS/Primerica, their affiliates, and their predecessors.

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