

Do right by our men and women in uniform

As the U.S. military protects this country, recent initiatives in the financial industry have demonstrated its desire to ensure our military personnel receive financial security in return. Financial regulators discovered in recent years that young and financially inexperienced military personnel had long been targets of deceptive and abusive financial sales practices by certain broker-dealers hoping to capitalize on their inexperience. These discoveries initiated responses from national regulators to highlight the need for financial institutions and investment professionals to modify business practices and eliminate disadvantages imposed on this vast group of consumers.

In December 2004, NASD (now known as FINRA) ordered a Texas-based broker/dealer to pay a total of \$12 million in compensation to thousands of military customers as restitution for misleading sales practices. The broker/dealer had allowed its representatives to purchase unsuitable mutual fund investments with “up-front sales charges of up to 50 percent through a monthly systematic investment plan” for its clients. Similar abuses began to emerge in various financial sectors, particularly in relation to life insurance products. Once regulators became aware of these developments, the Government Accountability Office conducted a review of all financial products sold to members of the military. Within a year, Congress passed the Military Personnel Financial Services Protection Act of 2006 (the “Act”).

While awareness of this issue has expanded in recent years, bank advisors may be unclear as to the specific legal requirements relating to investment products and services sold to military members. It is therefore crucial for you to familiarize yourself with these requirements so you can revise their internal policies and procedures accordingly.

The 2006 Act requires the following:

- The sale of investments to military personnel through systematic payment plans is now prohibited. These plans require investors to make periodic payments over an extended period of time.
- All sales of insurance products to military personnel must be accompanied with a disclosure of the existence of government subsidized life insurance policies.

- The sale of insurance products to military personnel on military bases is prohibited unless certain additional disclosures are made in writing.
- All life insurance products found to be in violation of the Act are deemed void at inception at the discretion of the military member or his/her dependent.
- A list of barred brokers and agents must be maintained by the Department of Defense and made accessible to installation commanders as well as state and federal regulators.

Failing to adhere to these requirements could result in serious repercussions. For example, should a bank advisor be found to have intentionally violated or willfully disregarded the provisions concerning insurance sales, the advisor will subsequently be prohibited from engaging in insurance business with any federal employee on any federal land.

Based on these regulations, banks should review their current sales practices and enhance policies accordingly to focus on dealings with military personnel. If your customer base contains members of the military be sure to make all necessary disclosures prior to engaging in any sales transactions.

It’s crucial to adequately educate and train all members of your team about these important considerations. Finally, as your financial products and services expand, you should encourage all military clients to learn as much about their available investment options as possible while providing all necessary disclosures.

Michelle L. Jacko, Esq. is the CEO of Core Compliance & Legal Services, Inc., a specialty firm focusing on legal services, compliance consultation and financial accounting to banks, broker-dealers and investment advisors. She also serves Of Counsel at Shustak & Partners, PC’s New York and San Diego offices. She can be reached at www.corecls.com.

