COLI

Good for America

CORPORATE OWNED LIFE INSURANCE

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COLI CORPORATE OWNED LIFE INSURANCE

Businesses today purchase insurance on the lives of employees to meet critical needs, such as funding the cost of employee benefits or protecting against the loss of business owners or key employees. Commonly referred to as corporate owned life insurance, or "COLI," this insurance has been recognized by states and regulators as a tool that is well suited to meet these important needs.

This brochure highlights the important benefits of COLI programs, not only to businesses and the workers participating in programs made possible by COLI, but also to the U.S. economy as a whole.

WHY BUSINESSES OWN LIFE INSURANCE

In a COLI arrangement, an employer purchases a policy or policies on one or more of its employees. When the insured dies, the insurance death benefits are used by the employer to offset the costs of employee benefit programs.

Most often, employers use the death benefits to fund the cost of added or expanded employee benefits, including broad-based health, disability, survivor, and supplemental retirement benefits. Because of accounting changes adopted by the Financial Accounting Standards Board in 1992, retiree benefit liabilities are required to be accrued as they are earned over the working lifetime of the employee rather than as they are paid after retirement. Companies use life insurance to build an asset to offset this balance sheet liability, thus providing reassurance to employees and investors that the company is not making promises it cannot afford to keep.

Life insurance provides a stable financing tool, ideally suited to long-term benefit plan funding. Arrangements are structured, based on actuarial projections, so that the pattern of death benefits received closely mirrors the company's benefit payments. In the meantime, earnings—i.e., the "inside build-up"—are allowed to grow and offset the accrued cost of the future employee benefit liabilities on a company's balance sheet.

STATE "INSURABLE INTEREST" LAWS AUTHORIZE COLI

Business-owned life insurance programs are allowed only to the extent that the business has an "insurable interest" under state law in the employees whose lives are insured. In many states, the amount of coverage that may be purchased is limited by the employer's aggregate employee benefit plan expenses. States have revisited the insurable interest laws from time to time to address changes in policy goals and COLI practices.

COLI ENDORSED BY NEW YORK STATE AS IN "BEST INTERESTS" OF WORKERS

The State of New York in 1996 modified its insurable interest law to specifically authorize businesses to purchase insurance on the lives of employees to fund employee benefit plans. The New York legislature expressed strong support for COLI, stating that "assisting employers in developing innovative means of financing employee health and other benefits is in the best interests of the working people of this state."

SMALL BUSINESSES RELY ON COLI

Smaller businesses often purchase life insurance to protect against financial loss from the deaths of key employees and to facilitate business continuation after the death of a business owner. Without COLI, many of these businesses would not have the resources necessary to keep operations running and to provide jobs after the loss of an owner or key employee.

BANK REGULATORS RECOGNIZE VALUE OF COLI

COLI is utilized widely by banks and other financial institutions of all sizes under guidance from their regulators and COLI particularly important financial asset to banks during the current fiscal crisis. The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the of Thrift Supervision, have identified life insurance as an appropriate means for banks to finance employee benefit plans. Joint interagency guidelines note, "Like other businesses, institutions often use life insurance as a financing or cost recovery vehicle for pre- and post-retirement employee benefits."* The guidelines add, "In these arrangements, an institution insures the lives of directors or employees whom it has an insurable interest to reimburse the corporation for the cost of employee benefits."*

* OCC Bulletin 2004-56

CONGRESS REFORMED COLI AS PART OF THE PENSION PROTECTION ACT OF 2006

From 2003 through 2006, Congress carefully studied COLI, its tax treatment and the many benefits it provides. That process resulted in enactment of the "COLI Best Practices Act" as part of the "Pension Protection Act of 2006," a broadly supported and thoroughly bipartisan piece of legislation.

Specifically, the "COLI Best Practices Act" enacted new section 101(j) of the Internal Revenue Code. Section 101(j) codified important protections for individuals covered by COLI policies including the following:

1. COLI policies may only be purchased on the lives of highly-compensated employees and directors of a business at the time policy is issued.
2. A COLI policy may not be purchased on the life of an employee or director unless such person is notified in writing of the intent to purchase the policy.
3. A COLI policy may not be purchased on the life of an employee or director unless such person consents to such purchase.

Congress, having thoroughly considered COLI and the tax laws applicable to it, and having enacted the "COLI Best Practices Act" in 2006, should preserve the current law rules applicable to COLI.

LIFE INSURANCE TRADE ASSOCIATIONS ENDORSE MANDATORY EMPLOYEE CONSENT

The leading U.S. life insurance trade associations – including the Association for Advanced Life Underwriting ("AALU"), the National Association of Insurance and Financial Advisors ("NAIFA"), the American Council of Life Insurers ("ACLI"), the National Association of Independent Life Brokerage Agencies ("NAILBA") and GAMA International – strongly support the benefits provided by COLI and the codification by Congress in 2006 of "COLI Best Practices."

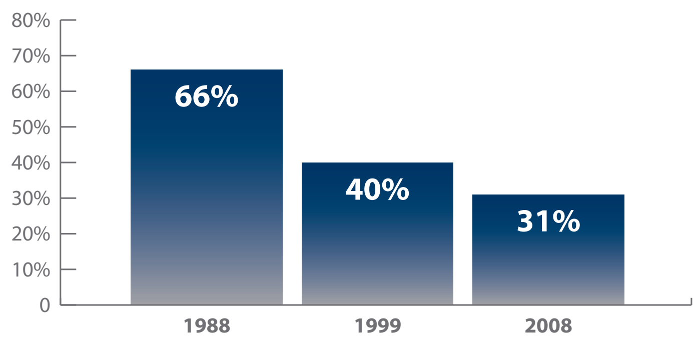
FACTS ABOUT COLI

- COLI premiums are not deductible
- COLI policy-loan interest is generally not deductible
- Employees bear no cost for COLI, yet reap substantial benefits

TAXING COLI WOULD HARM EMPLOYEES AND ADD TO STRAIN ON MEDICARE

Recent studies have shown a marked decline over the past several years in the number of employers offering retiree health insurance, a benefit often funded through COLI. For firms with 200 or more workers, 66% provided retiree health coverage in 1988, but only 31% did so in 2008. Any increase in taxes payable with respect to COLI would leave employers with less funding for employee benefit plans and could lead to reductions in the benefits employers are willing and able to provide to workers, including possible further reductions in retiree health benefits.

PERCENTAGE OF ALL LARGE FIRMS (200+ WORKERS) OFFERING RETIREE HEALTH BENEFITS



Source: Employer Health Benefits – 2008 Annual Survey – Retiree Health Benefits, Section 11; The Kaiser Family Foundation and Health Research and Educational Trust

To the extent that private employers cut back on retiree health benefits, there will be an accompanying increase in the costs to be borne by the Medicare Trust Fund. Conversely, the long-term solvency of the Medicare program will be bolstered if companies are encouraged to finance retiree programs using COLI.

Impact of COLI on National Savings and the Insurance Industry

75 million American families depend on products provided by life insurance companies. The more than $10 trillion of life insurance in force today constitutes an important form of protection of national savings. Any action to discourage business use of life insurance would undercut efforts to increase the low rate of U.S. savings.

Businesses today purchase insurance on the lives of employees to meet critical needs, such as funding the cost of employee benefits or protecting against the loss of business owners or key employees. Commonly referred to as corporate-owned life insurance, or "COLI," this insurance has been recognized by states and regulators as a tool that is well suited to meet these important needs. Taxing COLI effectively would eliminate this type of life insurance, which would have a significant adverse impact on insurance carriers, life insurance agents, insurance company investors, and the economy as a whole. COLI is also utilized widely by banks and other financial institutions and imposition of taxes would adversely impact their financial health.

This paper highlights the important benefits of COLI programs, not only to businesses and the workers participating in programs made possible by COLI, but also to the U.S. economy as a whole.

AALU ASSOCIATION FOR ADVANCED LIFE UNDERWRITING

Founded in 1957, the **Association for Advanced Life Underwriting** is a professional trade association representing 2,000 life insurance agents and financial advisors nationwide. Most members are engaged in complex uses of life insurance such as in business continuation planning, estate planning, charitable planning, retirement planning, deferred compensation and employee benefit planning. The mission of AALU is to promote, preserve and protect advanced life insurance planning for the benefit of its members, their clients, the industry and the general public. AALU's website can be accessed at www.aalu.org.

NAIFA NATIONAL ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS

NAIFA comprises more than 700 state and local associations representing the interests of approximately 200,000 agents and their associates nationwide. NAIFA members focus their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. The Association's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

ACLI Financial Security. For Life.

The A**merican Council of Life Insurers** (ACLI) is a Washington, D.C.-based trade association whose 340 member companies account for 93 percent of the life insurance industry's total assets in the United States, 94 percent of life insurance premiums and 94 percent of annuity considerations. In addition to life insurance and annuities, ACLI member companies offer pensions, including 401(k)s, long-term care insurance, disability income insurance and other retirement and financial protection products, as well as reinsurance. ACLI's public website can be accessed at www.acli.com.

GAMA INTERNATIONAL

GAMA International is a worldwide professional association serving 5,500 field leaders in the insurance and financial services industry. Its members recognize their critical role in finding, building and inspiring the next generation of top performers who will, in their turn, lead the industry into the future. To help build these leaders, the association provides its members with professional development resources and opportunities, including educational, networking and leadership. GAMA International's website is located at www.gamaweb.com.

NAILBA NATIONAL ASSOCIATION OF INDEPENDENT LIFE BROKERAGE AGENCIES

The **National Association of Independent Life Brokerage Agencies** (NAILBA) is a nonprofit trade association with 375 member agencies in the U.S., representing 250,000 producers who deliver more than one billion dollars in first year life insurance premiums annually. NAILBA is dedicated to fostering the growth of its member agencies by providing educational resources, industry standards and a collective voice for legislative and regulatory efforts. Each of NAILBA's members commits to a statement of responsibilities to ethically and responsibly serve their clients' best interests. For more information, visit www.nailba.org.