This White Paper has been produced by a sub-committee of the PIMA Legislative & Regulatory Committee including PIMA President Ed Miltenberger, Mike Griffin, Esq. and Ann Nagle. The purpose is to assist members in explanatory conversations with Regulators and/or others. It is posted on the PIMA Website in our Legislative & Regulatory section. Our goal is to produce additional such White Papers on like topics of interest or significance to our members' business interests

The Origin and Structure of Life and Health Affinity Insurance Programs in the U.S.

The Professional Insurance Marketing Association (PIMA) is a not-for-profit membership association of over 100 organizations. Since 1974, PIMA has served as the leading national organization of agents, brokers, third-party administrators, insurance companies, and other businesses involved in the direct marketing of Life and Health (and other) insurance products to associations, employers, credit unions, and other affinity groups. Our members, which include Fortune [100/500] companies as well as small business owner-agents and brokers, service over 26.5 million certificates of insurance in 50 states. The sale of these products resulted in paid premiums in excess of $15 billion in 2011—protecting millions of Americans in all 50 states.

Background

Over the last several years, association sponsored benefit plans have received negative publicity and, in some states, increased regulatory scrutiny. In our view, this segment of the market has functioned and served the insurance buying public well for more than 50 years. Association sponsored programs were introduced in the fifties and sixties using a relatively straightforward distribution structure: a master group policy issued to the association or affinity group directly or, in some situations, issued to a Trust and generally under the control of the sponsoring association with certificates evidencing coverage issued to individual insureds. These programs have provided valuable insurance products to millions of members in some of the largest and most well-known associations in America, including professional associations like the American Medical Association, and affinity groups like alumni associations and the AARP and AAA.

Association sponsored insurance programs also benefit smaller associations, where several smaller associations have joined together to form a Multi-Association Trust (MAT). The consumer benefit of a MAT is it allows multiple associations to spread administrative and risk charges over a larger group which provides greater buying power for the association's membership.

The association and affinity group insurance model has benefited millions of consumers through lower costs from reduced acquisition and administrative expenses producing a competitive option for members and their employees. This has allowed insurance companies, agents, and brokers to more quickly and efficiently bring products to market that serve the needs of consumers. Specifically, the joint buying power of an association has provided quality insurance benefits for members and their employees across multiple states with a common benefit structure.

Today, this marketplace is supported by some of the largest and most well respected insurance companies in the world that cover blocks of business extending across all 50 states and serving millions of Americans.

Increased Regulation May Actually be Harmful to Consumers

As previously stated, over the last several years association sponsored benefit plans have received negative publicity and, in some states, increased regulatory scrutiny. While PIMA applauds the efforts of state regulators to protect the interests of insureds in their states, we would encourage state insurance departments to focus on the cause of any problem and not simply restrict or inhibit the ability of companies to offer valuable insurance products to association members. In our view, any matters of concern are typically isolated incidents involving the sale of non-compliant or unregulated products by unscrupulous companies, agents or brokers. It is questionable whether more restrictive regulation of association sponsored insurance programs will have the intended effect of protecting consumers by reducing or eliminating these types of programs or actually harm consumers by restricting their ability to purchase valuable products from reputable companies.

Today there are several states that require extensive questionnaires to validate the legitimacy of these associations and the plans they offer, which has the effect of restricting coverage availability. Over the years there have been various attempts to extend extra-territorial jurisdiction over policies issued to an association (with or without the use of a Trust) sitused in a state by requiring that such policies (i) meet the laws of all states where active or prospective participants are located and (ii) include a provision extending jurisdiction to the regulatory agencies and courts of such jurisdiction.

While we applaud the efforts of the various state regulatory agencies to improve consumer protection measures, we believe the solution is clear and consistent regulation through NAIC model laws (Model 100, Sections 4 and 5 for Group Health and Model 565, Sections 1 and 2 for Group Life).

We also believe there may be a misconception by some regulators about consumer risk from association insurance programs. As long as an association group insurance program is issued on a fully insured basis to an association as described above, plan participants are protected by current state regulation. (In addition the Boards of Directors of these associations provide oversight and program scrutiny on behalf of their members.) There have been situations where operators of health insurance programs issued to an association or Trust on a self-funded basis have attempted to avoid state regulation by claiming ERISA preemption. Consequently, these self-funded association programs (sometimes referred to as MEWAs) have terminated leaving unfunded claims or other plan liabilities which harm plan participants. PIMA advocates that association sponsored programs be issued on a fully insured basis subject to the jurisdictions of state regulatory authorities.

Increased regulation, will likely cause some insurance companies to stop issuing policies to associations or to move business to other states with more favorable laws/regulations resulting in fewer competitive options for consumers. Therefore, we encourage state insurance regulators and legislators to enter into a dialogue with the companies they regulate that insure and service association sponsored programs before advancing laws or regulations that may actually harm consumers.

In conclusion, new regulations can produce several unintended consequences that will be harmful to insurance consumers, taxpayers, employees, and businesses. We ask that regulatory authorities or agencies consider the following potential consequences of regulatory activities before restricting highly-valued association sponsored insurance programs:

- **Market Impact** – Increased regulation may cause some insurance companies to withdraw from this segment of the market and associations to cease offering insurance programs to their members, which will make coverage less available for consumers;

- **Increase in the Cost of Coverage** – Insureds could see an increase in their premiums based on the increased administrative expenses for insurers. Likewise, employers would see an increased complexity of their human resource functions and other related costs; and

- **Economic Impact** – Numerous jobs have been created throughout the country with financial institutions servicing this business. These jobs may be eliminated. Additionally, further regulation may result in decreased revenues for certain businesses and thus tax revenue for our states.

In this difficult economic climate, the impact of additional regulations could be devastating to many insurance consumers, not-for-profit affinity organizations, and employers. As a result, we encourage the Regulatory Agencies to carefully consider these issues before moving forward.

PIMA and our members stand ready to assist your efforts in whatever way possible. For additional information, please contact Mona Buckley, PIMA Chief Executive Officer, (817) 569-PIMA (7462).
**2011 PIMA Affinity Marketplace Survey*