

## TECHNICAL ADVISORY

TA 135

March 30, 1999

**SUBJECT:** Progressive Vanguard Contract

**BACKGROUND:** The Progressive Insurance Company received approval from the Louisiana Insurance Rating Commission (LIRC) last fall for the Vanguard Agent program. The Vanguard program offers certain selected Progressive agents the option of selecting an enhanced commission schedule of 12 percent new business/10 percent renewal; or the opportunity to participate in the Super Saver rate filing which provides lower rates for preferred and super-preferred insureds.

When Progressive promulgated its Vanguard Agent contract addendum, IIAL expressed strong objections to many of the contract provisions. In the last four or five months, IIAL has conducted extensive negotiations with Progressive on behalf of our member agents with regard to these concerns about the Vanguard addendum.

Progressive has finalized the Vanguard addendum and will offer the final contract to selected agents for completion. Progressive has indicated that all Vanguard Agents will receive the revised final Vanguard addendum.

IIAL would like to acknowledge and thank Bob Rose, General Manager for Progressive in Louisiana, for his willingness to discuss the Vanguard contract with IIAL. Bob Rose was instrumental in making substantial revisions to the Vanguard contract, which will benefit agents.

**MAIN POINTS:** The final Vanguard Agent addendum is significantly improved from earlier drafts. Many of the objections IIAL raised have been resolved. However, there are still a number of provisions in the Vanguard contract which each agency should carefully review and decide whether or not the contract will cause a problem for their individual agency. Following are some highlights of the Progressive Vanguard contract addendum which agents should review.

### **SECTION 2. PROGRESSIVE VANGUARD PROGRAM ELIGIBILITY**

**REQUIREMENTS.** One of the most controversial provisions of the Progressive Vanguard contract is Section 2.a. which requires the agency to limit the number of non-standard private passenger automobile insurance carriers used by the agency to Progressive and three other companies scheduled in Schedule A of the Vanguard contract. Each agency should negotiate the companies listed in Schedule A very

carefully and make certain that they are comfortable with this limitation of market representation. Section 2.b. requires the agent to maintain a certain percentage of violation disclosures. Agencies should discuss this provision thoroughly with their Progressive representatives and make certain that agency underwriting procedures are adequate to maintain the required level of disclosure. Section 2.c. requires that the agency comply with any other eligibility requirements listed in Schedule A. Each agency should negotiate these provisions very carefully with its Progressive representative.

**SECTION 3. PROGRESSIVE VANGUARD COMMISSION.** Section 3 states in part that “subject to Section 9, such commission shall apply to all policies that are first issued by a Progressive Vanguard company hereunder during the term of this addendum and any renewals thereof.” IIAL feels strongly that Vanguard commissions should apply to all renewals of the existing Progressive business of agents who qualify to be Vanguard Agents. IIAL has negotiated this provision extensively with Progressive, and Progressive continues to refuse to apply Vanguard commissions to existing agency business. Progressive contends that the program would not be economically viable.

**SECTION 4. CHANGE IN TERMS.** Section 4 states in part, “not more than twice during any calendar year, you may change the competitive companies listed in Schedule A upon written notice to us, provided that no more than three such companies may be listed for any given insurance line. Any such change shall be evidenced by us through the issuance of a revised Schedule A.” Agencies should be aware that any and all changes to the three non-standard automobile markets outlined in Schedule A can only be changed twice a year and subject to the approval by Progressive with a revised Schedule A.

**SECTION 6. COMPLIANCE.** The terms of this provision have been substantially improved over previous editions of the Vanguard addendum. However, agencies should be aware that Progressive maintains significant authority to verify agency compliance with the terms of the Vanguard addendum. Progressive requires agents to fully cooperate in their efforts to determine your compliance. This may include a review of a summary of your production reports from competitive carriers and unannounced telephone calls to request quotes.

**SECTION 8. TERMINATION.** The Vanguard addendum terminates automatically if the underlying producer agreement is terminated. In addition, the Vanguard addendum specifies termination without cause and termination with cause. Termination with cause would result from the failure of the agency to comply with

the provisions of the addendum “in any material respect.” Termination with cause results in limited rights after termination under Section 9 of the addendum.

**SECTION 9. RIGHTS AFTER TERMINATION.** Section 9.a states that termination with cause allows Progressive, at its discretion, to withhold all or a portion of any unpaid advertising reimbursements or commissions that otherwise would have been payable hereunder. “Termination of this addendum will not affect any provisions of the producers agreement.” Section 9.b.ii. states, in part, “if you have not met all of the eligibility requirements set forth in Section 2 and Schedule A, then we may, in our discretion, continue to pay to you the Progressive Vanguard commission rates for all policies...” Under the terms of both of these provisions, Progressive has the right to reduce the commissions payable from the Vanguard commission schedule to the normal producers agreement commission.

**GENERAL REVIEW.** In addition to reviewing the specific Progressive Vanguard addendum provisions outlined above, IIAL recommends that every agency read the contract thoroughly, negotiate Schedule A carefully and consider the impact on the agency. While the Vanguard addendum has been significantly improved, it still may raise specific concerns or objections for individual agencies. Progressive is also urging agents to read the contract carefully before signing the addendum.

**NECESSARY  
ACTION:**

If your agency is eligible for the Progressive Vanguard contract, discuss the concerns outlined in this Technical Advisory and your individual issues or concerns with your Progressive marketing representative.