**BUSINESS ENTITY INITIAL APPLICATION**

**General Comment/Suggestions**

**Oklahoma:**

* All Applications ---There are no questions to ask individual licensees or BE’s if they have ever had an appointment with an insurance Carrier Terminated for cause.  A lot of time the Carrier will not enter in a termination for cause to the PDB as “for cause” but we feel it is important to ask every licensee if this has taken place .  This can be added to background question #2 on the ORIGINAL APP and RENEWAL applications.
* Oklahoma has been questioned during several legal hearings about the legality of having an “Authorized Submitter” fill out an application for an applicant.  There is no legal recourse to go after a “submitter” when information is intentionally falsified.  We feel it would be beneficial to discuss this portion off the application with other regulators to determine if additional information on the submitter (DOB, SSN, Contact information etc) can be gathered so we can take action against them in the event of willful falsification.   The NIPR user agreement briefly touches on this issue but to our knowledge NIPR doesn’t keep track or require a signed authorization for a submitter to complete on behalf of an applicant.

**Page 1: Section 6**

**SILA:** Section 6

* *List any other assumed, fictitious, alias or trade names under which you are currently doing business or intend to do business.*

What if there are more names than space allows? Sometime a state will take it that we want to do business under the name entered, when, in fact we do not. We’re just putting names we currently use in other jurisdictions.

**Page 1: Section 9**

**SILA:** Section 9

* Question #9 states: *Is the business entity affiliated with a financial institution/bank?*

This question does not appear in the Business Entity Adjuster application. Is there relevance for keeping this question in the Uniform Business Entity Producer Application?

**Page 1: Section 25**

**Marsh:** Section 25

* Remove the SSN for the DRLP. Since the DRLP is already licensed, the name and NPN should suffice.

**Ohio:** Section 25

* Remove: Social Security Number for Designated/Responsible Licensed Producer (in section # 25)

**SILA:** Section 25

* Remove the SSN for the DRLP. Since the DRLP is already licensed, the name and NPN should suffice.
* Question #9 states: *Is the business entity affiliated with a financial institution/bank?*

This question does not appear in the Business Entity Adjuster application. Is there relevance for keeping this question in the Uniform Business Entity Producer Application?

**Form Clean-up:**

* Spacing in the Officers’ section needs to be adjusted.
* Some states in Jurisdiction area are bolded – not explained why.

**Page 4: Section 29 – General Background Suggestion**

**Connecticut:** Section 29

* Bold the word “**EVER**.” When we question licensees about incidents or actions that we have found, many respond with, “I thought it meant 5 years, or 10 years, or it was when I was in college, etc.”
* Add to the definition of “INVOLVED,” to include being **terminated** by the Broker Dealer or Voluntarily Resigning from the Broker Dealer.
* The current wording says “Involved” means having a “license” censured, suspended, terminated
* We could like to clarify or add that we also want their *explanation* and *supporting documents* if the FINRA action shows a Termination or Voluntary Resignation on the FINRA report.
* We do not have a number, but we find that those who have had a broker dealer terminate them or allow them to voluntarily resign is usually cause for further follow-up with our investigation unit.

**SILA:** Section 29

* On any form, where the term “Conviction” is defined, it appears as, or similar to, as follows:
* ***NOTE:*** *For Questions 1a, 1b, and 1c “****Convicted”*** *includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence or a fine.*
* With the increasing number of courts issuing first offender dispositions (First Offender Program, Deferred Adjudication, Accelerated Rehabilitative Disposition, and so forth), the defendant must enter a plea of guilt and often receives a period of supervision (probation) with possible monetary penalty. Both during and after the program completion, it is not considered a “conviction” under applicable state law.
* To limit confusion to the applicant, administrator and regulator in terms of how to handle lower level offenses or infractions, we are requesting the following definition of ‘conviction’:
* “Convicted” for the purposes of the questions below relates to any misdemeanor or felony level criminal act in which you have been found guilty by verdict of a judge or jury, have entered a plea of or nolo contendere, no contest, or other similar plea, are currently under any type of court ordered supervision related to a criminal act, and/or have ultimately received an adjudication of guilt in any manner.  Conviction does not, for the purposes of this document, refer to any act or event in which a plea of guilt was entered in order to receive a first offender disposition, deferred adjudication, or suspended sentence program and that program was successfully completed, resulting in a final dismissal of changes, or any history that has officially been expunged via a court order.

**Page 4: Section 29 -- Question 1a – 1c**

**California:** Section 29 Question 1a-1c

* **NOTE:** For Questions 1a, 1b, and 1c “**Convicted”** includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence or a fine.
* (1a) You may also exclude juvenile adjudications ~~(offenses where you were adjudicated delinquent in juvenile court.)~~
* (1b) You may exclude juvenile adjudications ~~(offenses where you were adjudicated delinquent in a juvenile court.)~~

If ~~you~~ any of the have a felony conviction involving dishonesty or breach of trust, have they ~~you~~ applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033?

* (1c) Has the business entity I don’t think businesses can serve in the military. ) ( or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, ever been convicted of a military offense, had a judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, currently charged with committing a military offense?
* (1c) **~~NOTE:~~** ~~For Questions 1a, 1b, and 1c “~~**~~Convicted”~~** ~~includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence or a fine.~~

**Ohio:** Section 29 Question 1a-1c

* Update: **NOTE**: For Questions 1a, 1b, and 1c, **“Convicted”** includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.

If you answered **“Yes”** to any of the above questions (1a, 1b, or 1c), you must attach to this application:

a) a written statement identifying all parties involved (including percentage of ownership, if any) and explaining the circumstances of each incident,

b) a copy of the charging documents of each incident, and

c) a copy of the official documents of each incident, which demonstrates the resolution of the charges or any final judgment.

Update: Has the business entity or any owner, partner, officer, or director of the business entity, or member or manager of a limited liability company, ever been notified by any jurisdiction ~~to which you are applying~~ of any delinquent tax obligation that is not subject of a repayment agreement?

**Reasons for suggested changes:**

* All licensed producers have been assigned an NPN, therefore SSN should no longer needed on the application for the RDPs.
* Documents for “Yes” answers should be plural as many applicants have more than one case in which they are reporting a yes answer.

Stats are not available, but would affect any applicant that has multiple charges/convictions.

Delinquent tax obligation can be from federal, state, local, or other, not just from the jurisdiction applicant is applying.

Ohio has seen only a handful of applicants that have argued that they answered no because the delinquent tax obligation was from a jurisdiction other than Ohio, but their arguments have caused a lot of problems.

**Page 4: Section 29 -- Question 2**

**California:** Section 29 Question 2

* Section 29: (2) Has the business entity or any owner, partner, officer or director of the business entity, or manager or member of a limited liability company, ever been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license, or registration?
* “Involved” means having a license censured, suspended, revoked, canceled, terminated, or restricted; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license or entering into a settlement to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license or registration. “Involved” also means having a license application denied or the act of withdrawing an application or entering into a settlement to avoid a denial. You may EXCLUDE terminations due solely to noncompliance with ~~continuing education requirements or~~ a failure to pay a renewal fee.

If you answer yes, you must attach to this application:

1. a written statement identifying the type of license, all parties involved (including their percentage of ownership, if any) and explaining the circumstances of each incident,
2. a copy of the ~~Notice of Hearing~~ pleading or other document that states the charges and allegations, and

a copy of the official document which demonstrates the resolution of the charges or any final judgment.

**SILA:**  Section 26 Question 2

* We are asking for additional clarification for the term “Involved”.
* *Involved means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, placed on probation, sanctioned or surrendering a license to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. “Involved” also means having a license, or registration, application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may exclude terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.*

Is the applicant required to disclose late action regulatory filing fines or fees (example: late address change fines)? Or, are late filing fees not considered administrative actions and are outside of the disclosure requirements?

* Also suggest the removal “noncompliance with continuing education requirements” from business entity applications.
* We do not have a number, but we find that those who have had a broker dealer terminate them or allow them to voluntarily resign is usually cause for further follow-up with our investigation unit.

**Page 4: Section 29 -- Question 3**

**Connecticut:** Section 29 Question 3

As regards any demand for payment, would like to include if they have reported a Judgement/Lien on their FINRA report.

Would like to add Question #3 to All **renewal** applications

**SILA:** Question 3

* Regarding the bankruptcy question:
* *Has any demand been made or judgment rendered against you or any business in which you are or were an owner, partner, officer or director, or member or manager of a limited liability company, for overdue monies by an insurer, insured or producer, or have you ever been subject to a bankruptcy proceeding?*

*Do not include personal bankruptcies, unless they involve funds held on behalf of others.*

More clarity is needed around what is expected on the highlighted disclosure requirement? We are suggesting the addition of the following examples: “includes, but is not limited to, insured’s premium payments, employee tax withholdings, escrow accounts, or any monies held by you in any capacity for third parties”.

**Page 4: Section 29 -- Question 4**

**California:** Section 29 Question 4

* (4) Has the business entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company, ever been notified by any jurisdiction to which you are applying of any delinquent tax obligation? ~~that is not the subject of a repayment agreement?~~

Comment: Just because a delinquent tax obligation is subject to a repayment plan does not mean the taxpayer is in compliance with that repayment plan. I would like to know about all tax obligations to make sure they are in compliance with any repayment agreement that may be in effect.

**Page 5: Section 29 -- Question 7**

**California:** Section 29 Question 7

* (7) Same issues as individual app. Something to the effect of, “If not, documents must be sent to the states you are applying to” or something similar.

**Page 6: Section 30 – General Comment**

**IIABA:** Attestation

* **Issue #1 –** Each of the forms includes attestations that (1) authorize the jurisdictions to which an application is submitted “to give any information concerning [an applicant], as permitted by law, to any federal, state or municipal agency, or any other organization and (2) to “release the jurisdictions and any person acting on their behalf from any and all liability of whatever nature by reason of furnishing such information.” IIABA is extremely troubled by both elements of this attestation (which appears to be unique to the insurance industry), and we encourage the NAIC to either remove it from the applications altogether or to make significant revisions. This statement permits state officials to share any information about a producer or applicant with *any* public or private organization and excuses regulators and others who obtain access to such information from *any* liability (regardless of circumstances, culpability of the party involved, injury to the affected person, etc.), and this boundless authorization and waiver is inappropriate and troubling. Producers and prospective producers have no choice whether to agree to this attestation, opportunity to inquire about its effect, or ability to reduce its scope, as they are compelled to agree to the statement in order to obtain their necessary licenses and to engage in their chosen professions. This issue affects every producer in the country and should be addressed by the Producer Licensing Task Force.
* **Issue #2** – The initial producer application forms (for both individuals and business entities) include an “Attachments” section at the very end. The section is a two-part disclosure that advises applicants about the attachments that must accompany an application and directs them to the State Matrix of Business Rules to determine exactly what must be submitted. IIABA urges the task force to revise this section in two ways. First, we believe the first statement should be deleted. In its current form, the statement simply notes that regulators in jurisdictions where a nonresident license is being sought will rely on the State Producer Database to confirm licensure in the applicant’s home state. The statement does not identify any documents or attachments that must accompany the application (which is the purpose of this section), so it can be removed. Second, if producers and applicants are expected to review the State Matrix of Business Rules and include any identified attachments with an application, then we urge the task force to include a more direct web address in this section. The applications currently make reference to the generic [www.nipr.com](http://www.nipr.com) address, and a more direct link to the matrix would be beneficial. One possible alternative for this section follows below:

***Attachments***

*Applicants must submit the jurisdiction-specific attachments listed in the State Matrix of Business Rules (insert appropriate link) with this application. Applications submitted without the required attachments may be returned unprocessed or considered deficient.*

**Page 6: Section 30 – Question 5**

**California:** Section 29 Question 5

* (5) I authorize the jurisdictions to which this application is made to give any information they may have concerning ~~me~~ the business entity or any individual named in this application, as permitted by law, to any federal, state or municipal agency, or any other organization and I release the jurisdictions and any person acting on their behalf from any and all liability of whatever nature by reason of furnishing such information.

**Page 6: Section 30 – Question 9**

**California:** Section 30 Question 9

* (9) I certify that the Designated Responsible Licensed Producer(s) named on this application understands that he/she is responsible for the business entity’s compliance with the insurance laws, rules and regulation of the State

Comment: This application is potentially being signed by someone other than the Designated Responsible Licensed Producer (DRLP) who is then certifying that the DRLP understands their responsibilities. Shouldn’t the DRLP also have to sign certifying that they themselves understand their responsibilities?