

**VIA ELECTRONIC DELIVERY**

September 19, 2005

Mr. Jonathan G. Katz  
Secretary  
U.S. Securities & Exchange Commission  
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Legal Department

*Re: NASD Proposed Rule Relating to Sales Practice Standards and Supervisory Requirements for Transactions in Deferred Variable Annuities (“Proposal”) (File No. SR-NASD-2004-183)*

Dear Mr. Katz:

We are writing on behalf of T. Rowe Price Investment Services, Inc., (“**Investment Services**”), a registered broker-dealer and member of the NASD, to offer our views on the above referenced Proposal. Investment Services is the distributor for the family of T. Rowe Price mutual funds which as of June 30, 2005 comprised over 100 funds with over \$154.5 billion in assets, including portfolios used in variable insurance products. Investment Services also acts as the exclusive distributor for two directly marketed variable insurance products – the T. Rowe Price No-Load Deferred Variable Annuity and the T. Rowe Price No-Load Immediate Variable Annuity. Both proprietary annuity products are issued by Security Benefit Life Insurance Company (in New York, by First Security Benefit Life Insurance and Annuity Company of New York) and offered exclusively by Investment Services to the public through solicitations and advertising in newspapers, magazines, television, the internet and direct mail. We do not collect a sales charge or load, or pay commissioned sales agents for distribution of our proprietary annuity contracts. The investment management, mortality and expense charges for these products are well below the industry averages. Investment Services does not offer or distribute any other deferred variable annuity products. Since the Proposal would impact how we market the products, it is of great interest to us.

We agree with the comments submitted by the Investment Company Institute (“**ICI**”). While we are generally supportive of the notion of enhanced suitability and sales practice requirements for deferred annuity products, we are concerned that the Proposal reaches too far, and in its desire to provide additional protections to the investing public, would adversely affect the distribution of directly marketed annuity products. Variable annuity contracts are indeed complex products and not suitable for the average investor. In our investment literature, on our website, and during our interactions with customers interested in our annuity products, we make every effort to explain the product features, including the disadvantages of annuities generally and other factors investors should consider. While Investment Services’ policy is not to make recommendations regarding the T. Rowe Price annuity contracts, there are certain other

aspects of the Proposal which would apply to its variable insurance distribution activities. Accordingly, our comments below address specific aspects of the Proposal as they relate to directly marketed annuity products.

### **Suitability Requirements.**

The Proposal would impose specific suitability findings on member firms anytime a recommendation is made to a customer to purchase or exchange a deferred variable annuity product. We agree with the ICI's comments on this aspect of the Proposal, and would support more specific interpretive guidance as opposed to a suitability rule specifically tailored to annuity products. The investment risks, expenses and features of variable annuity products are too varied to lend themselves to specific criteria for determining suitability, and member firms should have the flexibility to choose from a list of criteria to apply to recommendations for the annuity products being offered. For example, liquidity may not be a suitability issue if the annuity option selected by the investor provides the ability to withdraw account value at anytime after issuance with a minimal charge. While we agree that enhanced suitability requirements should apply to annuity transactions, the Proposal should provide a list of factors for the member firm to consider in its suitability determination as opposed to mandated, "check-the-box" suitability findings for each factor listed.

### **Principal Review.**

The Proposal would require a registered principal of the member firm to review and approve the annuity transaction prior to transmitting the application to the insurer, regardless of whether the transaction was recommended. In addition, the Proposal lists a number of factors that the registered principal shall consider when reviewing and approving the annuity transaction. We do not object to the concept of principal review; however, we believe several aspects of the Proposal make the applicability of such review to direct marketed annuity products problematic.

First, we are concerned that the principal review requirement, as structured in the Proposal, would effectively impose an "indirect" suitability requirement on annuity transactions which are not recommended by the member firm. In many cases, the criteria mandated for principal review under subsection (c) of the rule are more detailed and specific than the suitability criteria listed in subsection (b). We fail to understand the need for more specific findings for unsolicited transactions, not recommended by the member firm. Further, most of the information listed in the Proposal for review by the principal is not required to be collected in an annuity transaction that is not recommended by the member firm. For example, while our literature makes clear that annuities are long-term investments and our registered representatives are trained to alert investors to the liquidity and long-term features of the product, we do not collect the investor's investment objective and liquidity needs in the annuity application. Further, we do not inquire about an investor's net worth, although we do make investors aware that they should have adequate liquid reserves set aside before investing in annuities.



The requirement for a comparison of the annuity product to other potential investment vehicles is inappropriate for a principal review, and frankly, we do not understand how such a review could be made based on the limited information available to the principal in a non-recommended transaction. In footnote 20 of the proposing release, there is a troubling statement regarding the NASD's view that a side-by-side comparison of annuity products would be required for principal approval in an exchange transaction. We strongly object to such a requirement as it would be impossible for a principal to make such a comparison if the annuity product being exchanged by the customer is not offered or distributed by the member firm, and therefore, the principal would have no information on the other product's features in order to appropriately review and approve the transaction. In our case, we offer one deferred variable annuity product to our customers, many of whom seek our product because of its lower costs and expenses. It would be extremely burdensome for us to collect the information from the customer on their existing contract in a replacement situation in order to make the product comparison. This would effectively prevent member firms like Investment Services, which only offer directly marketed, no-load annuities, from accepting unsolicited exchanges of potentially higher cost, variable annuity products to the detriment of investors. The requirement for such a comparison, if retained in the final rule, should only apply to recommended transactions.

Accordingly, we believe the Proposal should be revised so that the registered principal would not be required to consider all the factors listed; but only those factors relevant to the member's annuity business. If a member firm offers a single type of deferred annuity product without cafeteria-style features, the principal should not be required to review each of the criteria listed in the Proposal, but only those applicable to the product and the member's annuity business.

We have serious concerns with respect to the requirement for principal review and approval of the transaction prior to transmittal of the application to the insurance company. The Proposal envisions a scenario whereby the customer completes the application in-person at an office of the member firm, and then the member firm transmits the application to the insurance company. This does not comport with how directly marketed annuities are distributed. Rule 22c-1(c) under the Investment Company Act of 1940 gives the insurance company at least two business days and as many as five business days to process the initial purchase payment and price the order for a variable annuity contract. The annuity application and purchase money must be received, reviewed and accepted by the insurance company before a contract is ultimately issued. In T. Rowe Price's case, because the application is usually completed by the investor without the assistance of a registered representative and mailed directly by the investor to the insurance company, a principal would not be able to review it before it is transmitted to the insurance company. We suggest that the timing standard in the Proposal be revised to require a principal review within two business days of the acceptance of the contract by the insurance company, or no later than the time the contract is sent to investors, in cases where the insurance application is mailed directly by the customer to the insurance company.



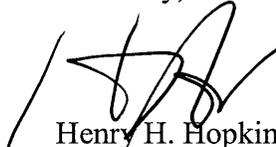
**Supervisory Procedures/Training.**

The Proposal would require member firms to implement procedures to screen for and require principal approval based upon all of the defined criteria listed in the Proposal for review by the principal. While we understand the need for supervisory procedures in this area, we do not know how member firms will implement “screening procedures” for variable annuity exchanges where the product being exchanged is not distributed by the member firm. For the same reasons discussed above under “Principal Review,” we believe member firms should have the flexibility to design their supervisory procedures based on the nature of their annuity business and types of products offered, taking into consideration a list of general criteria identified in interpretive guidance from the NASD. Furthermore, training of registered representatives and principals should be geared to the same general criteria, allowing member firms to design their training programs to match the annuity products offered.

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We appreciate the opportunity to comment on the Proposal. Please feel free to call Darrell N. Braman at (410) 345-2013 or Sarah McCafferty at (410) 345-6638 if you have any questions on our comment letter.

Sincerely,

  
Henry H. Hopkins

  
Darrell N. Braman

  
Sarah McCafferty

