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Mr. Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number 4-725 – SEC Staff Roundtable on the Proxy Process

Dear Mr. Fields:

Lincoln Investment Advisors Corporation (“LIAC”) is pleased to submit this letter to the SEC roundtable on the proxy process.¹ The roundtable’s agenda is set to address several important issues. We would like a proxy issue to be addressed with the sole goal of reducing proxy costs for investors who own beneficial interest in mutual funds through variable life insurance and variable annuity products.

LIAC is the investment adviser and administrator for the series funds (“Funds”) of Lincoln Variable Insurance Products Trust (the “Trust”). The Funds incur substantial costs in printing and mailing proxy statements and information statements – sometimes amounting to millions of dollars annually. These costs could be largely avoided if variable product funds, such as the Funds, were allowed to transmit such materials using the same “notice and (internet web) access” model utilized by retail funds for the past ten years. We believe that the Commission or its staff should provide guidance to this effect.

Background.

The Trust is a series open-end investment company registered under the Investment Company Act of 1940 (the “1940 Act”). The Trust presently offers 92 Funds, each of which is available solely through variable insurance or variable annuity products.

Funds are offered within variable products via a two-tiered structure. The top tier consists of an insurance company separate account, which holds variable annuity assets and liabilities separate and apart from the assets and liabilities of the insurance company’s general account. Each separate account is a unit investment trust (“UIT”) registered under the 1940 Act and is divided into subaccounts. The bottom tier of the two-tiered structure consists of various

¹ LIAC is an indirect, wholly-owned subsidiary of Lincoln National Corporation, a publicly-traded insurance holding company doing business as Lincoln Financial Group. LIAC is a SEC-registered investment adviser.

underlying funds, with each subaccount being invested exclusively in a particular fund. This two-tiered structure is used by virtually all variable products in the industry.

While the variable product owner is the beneficial owner of the underlying funds, the insurance company separate account is the record owner and therefore casts the votes regarding any underlying fund proposal; however, Section 12(d)(1)(E) of the 1940 Act requires insurance companies to “seek voting instructions” from contract owners with respect to any vote of fund shares attributable to their variable products.² Historically, insurance companies sought voting instructions via the same methods used to solicit fund proxies.

Insurance Companies Should be Considered Intermediaries When Soliciting Voting Instructions.

In 2007, the Commission adopted amendments to the proxy rules under the Securities Exchange Act of 1934 (the “Exchange Act”) that provide an alternative “notice and access” method for issuers to furnish proxy materials to shareholders by posting them on an internet website and providing shareholders with notice of the availability of the proxy materials.³ The “notice and access” model was adopted largely to “reduce significantly the printing and mailing costs associated with furnishing proxy materials to shareholders.”⁴

The proxy rule amendments addressed the role of financial intermediaries in the proxy process.⁵ While the process of distributing proxy materials to beneficial owners is considerably more complicated than an issuer directly delivering the materials to legal/record holders,⁶ the

² Section 12(d)(1)(E) provides exemptions from certain investment restrictions set forth in Section 12(d)(1) of the 1940 Act. The exemptions permit registered separate accounts organized as UITs to invest in underlying mutual funds (a variable insurance product’s two-tiered structure). One of the conditions of Section 12(d)(1)(E) is that a separate account either (a) seek voting instructions from contract owners with respect to voting an underlying fund’s proxies (referred to as “pass-through” or “echo voting”) or (b) vote its shares of an underlying fund in the same proportion as the vote of all other fund shareholders (referred to as “mirror voting”). The Insurance Companies pass-through all contract owner voting instructions.

³ As in the SEC adopting release for the proxy rule amendments, the term “proxy materials” in this letter includes proxy statements on Schedule 14A, proxy cards, information statements on Schedule 14C, annual reports to security holders required by Rules 14a-3 and 14c-3 of the Exchange Act, notices of shareholder meetings, additional soliciting materials, and any amendments to such materials. E-Proxy Adopting Release, n.23, *infra*.

⁴ “Internet Availability of Proxy Materials,” SEC Release Nos. 34-52926 (Dec. 8, 2005) (“E-Proxy Proposing Release”); 34-55146 (Jan. 22, 2007) (“E-Proxy Adopting Release”); 34-55146 (Mar. 17, 2008).

⁵ Exchange Act Rule 14b-1 applies to a “broker or dealer.” Exchange Act Rule 14b-2 applies to a “bank, association, or other entity that exercises fiduciary powers.”

⁶ The proxy rules include several rules, referred to collectively as the “shareholder communications rules,” that basically require issuers to send their proxy materials to intermediaries for forwarding to the beneficial owners. See, e.g., Exchange Act Rules 14a-13, 14b-1, 14b-2, and 14c-7.

amendments allowed retail funds to use the notice and access model when soliciting proxies through intermediaries such as brokers and banks, provided certain conditions were satisfied.⁷

The Commission did not, however, address insurance companies in their roles as intermediaries for funds in variable insurance products. The insurance industry has subsequently taken a conservative approach and continued to print and mail hard copies of proxy statements to solicit contract owner voting instructions for underlying fund proxy solicitations. We are not aware of any reason that the variable product owning public would be less amenable to notice and access as compared to retail fund owners. We believe the Commission or its staff should provide guidance allowing insurance companies, in compliance with substantially the same conditions as apply to broker-dealers and banks, to use notice and access when soliciting voting instructions from contract owners.

Insurance Companies Should be Able to Use Notice and Access for Information Statements.

The Trust has received a commonly issued exemptive order from the Commission (the “SEC Order”) to permit it to enter into and materially amend Fund sub-advisory agreements without shareholder approval.⁸ As a condition to the SEC Order, the affected Fund’s contract owners are furnished with the information about the new sub-adviser that would have been contained in a proxy statement. To meet this obligation, the Fund prints and mails contract owners an information statement at substantial costs that are ultimately borne by contract owners. As with proxy statements, printing and mailing information statements is standard practice in the insurance industry.

Retail funds relying on similar exemptive orders may use notice and access to provide shareholders with such information. We believe that underlying funds of variable products should be able to use the same methods.

Conclusion.

Underlying funds of variable products spend millions of dollars annually to print and mail proxy statements and information statements for contract owners. Contract owners indirectly pay for such costs. We believe that, ten years after internet access became prevalent enough for the adoption of the notice and access rules, it is difficult to justify the cost of denying insurance companies the ability to use this method of communication.⁹ The policies underlying

⁷ The conditions include, among others, provisions addressing recordkeeping, public web posting of materials, ability to opt in or out, and timing of communications. See Rule 14b-1.

⁸ The SEC Order was granted under Section 6(c) of the 1940 Act for an exemption from Section 15(a) of the 1940 Act and Rule 18f-2 under the 1940 Act, as well as from certain disclosure requirements. *Lincoln Investment Advisors Corporation and Lincoln Variable Insurance Products Trust*, Investment Company Act Release Nos. 29170 (Mar. 9, 2010) (Notice of Application) and 29197 (Mar. 31, 2010) (Order).

⁹ The Commission has recently acknowledged the public’s broad acceptance of using the internet to deliver fund documents. Recently, the Commission adopted new Rule 30e-3 under the 1940 Act,

Brent J. Fields, Secretary
U.S. Securities and Exchange Commission
Page 4

these rules for retail funds apply equally to underlying funds of variable products. Therefore, we believe that the time is ripe for regulatory guidance on this issue.

Please contact the undersigned at (484) 583-6302 with any questions or comments regarding this letter.

Sincerely,



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regarding an optional method for mutual funds to satisfy their obligations to transmit shareholder reports by making such reports and other materials accessible at a website address specified in a notice to investors. *Optional Internet Availability of Investment Company Shareholder Reports*, SEC Release No. 33-10506 (June 5, 2018). In doing so, the Commission stated:

The rule draws on the Commission's experience of more than twenty years with use of the internet as a medium to provide documents and other information to investors. *The rule also draws on the Commission's investor testing efforts and other empirical research concerning investors' preferences about methods of delivery for required disclosure documents and use of the internet for financial and other purposes generally.*

Id. (citations omitted).