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July 19, 2016

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20149-1090

Re: Concept Release on Business and Financial Disclosure Required by Regulation S-K, File Number S7-06-16¹

By Electronic Submission

Dear Mr. Fields:

The American Council of Life Insurers (ACLI) is a national trade association with 280 member companies that represent 95 percent of industry assets, 92 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Our members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance that 75 million American families rely on for financial and retirement security.

ACLI has long and actively participated in comprehensive endeavors to encourage streamlined, simplified, plain-English disclosure under the Federal securities laws, particularly as they apply to life insurance products.² Relevant readable disclosure and financial information enables consumers to make informed purchase decisions about financial products. Accordingly, we support the SEC's

¹ See Concept Release on Business and Financial Disclosure Required by Regulation S-K, 81 F.R. 23,916 (April 22, 2016).

² ACLI filed a rulemaking petition that was significantly reflected in Form N-6, the first registration and disclosure form designed specifically for variable life insurance; See Wilkerson, *Administrative History of Variable Life Insurance Registration Form N-6: Purpose, Design and Intent*, ALI-ABA CONFERENCE ON LIFE INSURANCE COMPANY PRODUCTS: CURRENT SECURITIES AND TAX ISSUES (2002). ACLI also developed a comprehensive, plain-English, user friendly disclosure initiative for fixed, index, and variable annuities that was shared with the SEC and FINRA; See, Wilkerson, *ACLI Disclosure Initiative for Fixed, Index, and Variable Annuities: Constructive Change on the Horizon*, ALI-ABA CONFERENCE ON LIFE INSURANCE COMPANY PRODUCTS (2007) (Cited in Wirth, *What's Puzzling You... Is the Nature of Variable Annuity Prospectuses*, 34 W. New England L. Rev. 127 (2012) at 153 note 53). ACLI commented extensively on Form N-3 and N-4 to help improve and enhance registration and disclosure forms for variable annuities organized as managed accounts and unit investment trusts, respectively, under the Investment Company Act of 1940. These were the first disclosure and registration forms designed specifically for variable annuities under the Federal securities laws. ACLI has also actively supported and contributed to annuity disclosure initiatives under state insurance laws and regulations, such as the NAIC Annuity Buyers' Guide (2015), which provides streamlined, plain-English and uniform disclosure information comparing fixed, index and variable annuities.

endeavors to improve the content and quality of required disclosure under the Federal securities laws.

The SEC's Concept Release on Reg. S-K provides an opportunity to reduce burdensome financial and business disclosure for a category of non-variable insurance products registered under the federal securities laws on Forms S-1 and S-3 under the Securities Act of 1933. This includes market value-adjusted fixed annuity contracts and investment options (MVA) contracts, index linked annuity contracts and living benefit guarantee contracts held in an associated mutual fund, brokerage or investment advisory account. We recommend relief from certain disclosure and financial information that has limited relevance to these products and the consumers evaluating them. In this way, disclosure and financial information would be more relevant and accessible to consumers, particularly for products that do not have custom tailored registration and disclosure forms for use under the Federal securities laws.

Statement of Position

We support and endorse the recommendations and rationale in the comment letter submitted by the Committee of Annuity Insurers that will be entered in the concept release record. Consistent with that submission, ACLI respectfully requests that the SEC add instructions to Regulation S-K or publish other forms of guidance that would excuse life insurance company issuers of these registered insurance products from requirements in Form S-1 and S-3 to disclose information that is not material to investors in these insurance products and imposes the heaviest burdens on the insurance company. Specifically, therefore, we support the following actions:

- Adding instructions to Regulation S-K that would excuse such issuers from the requirement to disclose management's discussion and analysis, executive compensation and certain other information items designed to enable investors to evaluate the issuer's corporate governance, financial results and future prospects³;
- Discontinuing requirements to file quarterly reports under the Securities Exchange Act of 1934 for insurance companies that are subject to reporting obligations solely because they have registered insurance products on Form S-1 or S-3 and to file unaudited interim financial statements in the prospectuses for such products⁴; and,

³ Among the disclosure items that are unnecessary for investors in general account insurance products registered on Forms S-1 or S-3 are several of the items in Regulation S-K on which the Concept Release specifically requests comment. These include: Select Financial Data (Item 301), Supplementary Financial Information (Item 302), Management Discussion and Analysis (Item 303) and Quantitative and Qualitative Disclosure about Market Risk (Item 305). Additional disclosure items in Regulation S-K that should not be required in the prospectus for insurance contracts include Executive Compensation (Item 402), Officers and Directors (Item 401), Security Ownership by Certain Beneficial Owners and Management (Item 403), Transactions with Related Persons (Item 404) and Corporate Governance (Item 407).

⁴ The Concept Release elicits comment on the continued need for quarterly reporting under the Exchange Act and asks such frequent reporting benefits investors, registrants and the markets and whether the reporting requirements should be different for different types of issuers. As noted in the Committee of Annuity Insurers' submission, life insurance business usually is not subject to short term changes that make quarterly disclosure meaningful. Indeed the required circulation of marginally useful disclosure inundates consumers with excessive disclosure that competes with and thwarts meaningful disclosure. The SEC incorporated these concepts in adopting Forms N-3, N-4 and N-6.

- Permitting such issuers to include only the most relevant portions of the insurance company's financial statement in the product prospectus while making the full financial statements available to investors upon request and permit the use of financial statements prepared in accordance with statutory requirements⁵.

ACLI supports and endorses the more extensive discussion and explanation of these requests that appears in the Committee of Annuity Insurers submission. The recommendations above comport with "scaled" disclosure requirements discussed in the concept release. Likewise, they reflect the SEC's action in adopting Rule 12h-7 under the 1934 Act, which exempts insurance companies from 1934 Act's periodic reporting requirements with respect to insurance products that are registered under the 1933 Act, provided certain conditions are satisfied.⁶ These suggestions are also consistent with the SEC's actions in developing streamlined, simplified, plain-English disclosure and registration forms for variable life insurance and variable annuities in Forms N-6, N-3, and N-4 respectively. The recommendations above follow the commendable "layered" disclosure initiatives recently developed by the SEC.

We commend the SEC and its staff for providing an opportunity to improve and enhance financial information and disclosure for financial product consumers. The Concept Release is the first step in an ongoing dialog between the public, registrants and the SEC that can produce a constructive and effective upgrading to many outdated or poorly fitting requirements in Regulation S-X, especially for non-variable insurance products registered on Forms S-1 and S-3.

Conclusion

Thank you for your attention to our views. If any questions develop, please let me know.

Sincerely,

/s/

Carl B. Wilkerson

⁵ In adopting Forms N-3, N-4 and N-6, the SEC implemented a parallel concept limiting the financial information that must be included in the prospectus, moving most of the audited annual financial statements to Part II of the registration statement and making them available to investors upon request. As noted in the Committee of Annuity Insurers submission, the requirement to include GAAP financial statements in Form S-1 and S-3 filings imposes a very substantial time and cost burden on life insurance companies that otherwise are not required to prepare GAAP financial statements or information. These burdens are a major impediment to many life insurance companies' entry into the registered general account insurance product marketplace and has limited the choices among this menu of products for investors.

⁶ Among other things, the SEC adopted this rule because state insurance regulation, like Exchange Act reporting, relates to an entity's financial condition; see, Index Annuities and Certain Other Insurance Contracts, Securities Act Release No. 8996, Exchange Act Release No. 59,221, 74 F.R.3138 (adopted Jan. 8, 2009). The exemption requires that both the insurance company and the security it issues be subject to state insurance regulation; that the insurance company file an annual statement of its financial condition with its state insurance regulator; that the security not be listed on any exchange, other trading or quotation system or other electronic communication network; that the insurance company take steps to ensure that a trading market in the security does not develop; and that contract prospectus disclose the insurance company is relying on the exemption.