



Financial Security...for Life.

Mike Monahan

Senior Director, Accounting Policy

Via Email: rule-comments@sec.gov

October 21, 2016

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

Re: SEC Release 33-10110; 34-78310; IC-32175; File Number S7-15-16 (“SEC Release”)

Dear Mr. Fields:

The American Council of Life Insurers (“ACLI” or “we”)¹ appreciates the opportunity to comment on the SEC Release which describes the proposed changes as technical amendments of requirements that may have become “redundant, duplicative, overlapping, outdated or superseded in light of other disclosure requirements. The Release reflects a thorough analysis of disclosure requirements and we are generally supportive of the SEC’s initiative. However, we believe the proposal to eliminate Rule 7-02(b) may result in unintended consequences. In addition, the potential to increase disclosure requirements under Accounting Principles Generally Accepted in the United States (“GAAP”) related to overlapping disclosures – where the Commission’s requirements are more expansive than those of GAAP, could create additional burdens on SEC-registered insurers at a time when several significant new accounting rules are in the process of being implemented.

Elimination of Rule 7-02(b)

ACLI respectfully disagrees with the characterization of the elimination of Rule 7-02(b) as a requirement that may have become “redundant, duplicative, overlapping, outdated or superseded in light of other disclosure requirements.” Rule 7-02(b) currently permits any mutual insurance company or wholly-owned stock subsidiary of a mutual insurance company to prepare their financial statements included in filings under the Securities Act of 1933 (the “1933 Act”), and the Securities Exchange Act of 1934 (the “1934 Act”) in accordance with statutory accounting requirements (cf. pages 130-131 of the Release). While the

¹ The American Council of Life Insurers (ACLI) is a Washington, D.C.-based trade association with approximately 280 member companies operating in the United States and abroad. ACLI advocates in state, federal, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing 95 percent of industry assets, 92 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Learn more at www.acli.com.

proposed elimination of Rule 7-02(b) in the Release would not have any direct impact of the ability of insurance companies to use statutory-basis financial statements in registration statements for variable insurance products on Forms N-3, N-4, and N-6 (based on relief provided in the instructions for those forms), and while it appears no mutual insurance companies are presently relying on Rule 7-02(b) as a basis to report statutory-basis financial statements, ACLI is concerned about the indirect impact the Commission's proposal to eliminate Rule 7-02(b) would have for other types of insurance products. ACLI believes the consequences are significant and very likely unintended.

Mutual insurance companies, which exist for the benefit of their policy owners and clients, would potentially bear significant burdens in the wake of the elimination of Rule 7-02(b). The substantial financial and administrative burdens that would be imposed by having to prepare and file audited GAAP financial statements – solely because a mutual insurance company or its wholly-owned stock subsidiary (hereafter collectively referred to as “mutual companies”) decides to issue certain life insurance products that would need to be registered as securities on Form S-1 or Form S-3 (e.g., market value-adjusted fixed annuity contracts, certain index-linked annuity contracts, among others) – would have an adverse effect on both current and prospective policy owners. In the absence of Rule 7-02(b), such companies, in this case, would need to prepare and file audited GAAP financial statements, the financial costs of which alone could run into the hundreds of millions of dollars (per company), not only upon making the initial transition to GAAP reporting, but on an ongoing basis. These costs would, given the mutual structure, be borne entirely by the policy owners. Though all mutual companies would suffer as a result, smaller mutual companies would suffer disproportionate harm.

The elimination of long-standing Rule 7-02(b) may also have the unintended consequence of limiting the product offerings available to America's retirees (or increasing their cost) at a time when those products appear to be most needed by the consuming public. Mutual companies may decide to limit their offerings of general account insurance products if the costs of doing so would force them to prepare and file audited GAAP financial statements when they would otherwise not be required to do so. Thus, ACLI disagrees with the characterization of the elimination of Rule 7-02(b) as simply being part of an attempt to, in the words of the Release, “eliminate redundant or duplicative requirements.” Such an undertaking, we submit, should involve a full analysis of the potential costs and benefits that the elimination of Rule 7-02(b) would have on mutual companies, their products, and the markets in which these companies operate.

Moreover, it is far from clear that the Release has justified a preference for GAAP filings in this context, especially in light of the long-standing and widely-held understanding that statutory filings are not only a legitimate and appropriate method of accounting for certain insurance products, but that they actually fulfill the Commission's stated goal of effective disclosure. In other words, statutory filings can and do provide investors with the information most material and most relevant to their investment decisions in the context of general account insurance products, given that they are reflective of factors most appropriate when evaluating the strength of an insurance company offering insurance guarantees (e.g., the manner in which estimates of policy owner dividend liability and policy benefit reserves are made). Conservative statutory-basis financials focus on an insurer's solvency and other measures relating to an insurer's ability to meet its obligations to policy owners, including the assets, liabilities, capital and surplus that state insurance regulators require of an insurer.

The Commission recognized this basic point about the appropriateness of statutory-basis financial statements as far back as 1974 when it allowed mutual companies to use an alternative to GAAP financials when filing their products. (cf. Federal Register, vol. 39, no. 53, March 18, 1974.) The Commission again noted the costs and administrative burdens associated with the production of GAAP financial statements in allowing issuers of variable insurance products to use an alternative to GAAP statements when filing variable annuities on Form N-4 (in 1985) and then again in 2002 when releasing Form N-6 for variable life insurance products. (cf. 50 FR 26145 (June 25, 1985); 67 FR 19848 (April 23, 2002). Again, as recently as 2010 in the passage of the Dodd-Frank Wall Street Reform and Consumer

Protection Act, Congress has also acknowledged accounting reporting regimes other than GAAP in certain contexts (e.g., the Collins Amendment and for the Federal Reserve's determination of concentration limits).

Overlapping Disclosures where the Commission's Requirements are More Expansive

Request for Comment: III E. 17 Overlapping Requirements – Potential Modifications, Eliminations or FASB Referrals

Paragraph 71. Should we retain, modify, eliminate or refer the foregoing incremental Commission disclosure requirements to the FASB for potential incorporation into GAAP?

ACLI member companies' resources are currently confronted with the implementation of several new accounting standards. In particular, classification and measurement of financial instruments, impairment of financial instruments, lease accounting, as well as revenue recognition for businesses within the holding company structure. In addition, the life insurance industry is currently evaluating a proposed Accounting Standards Update that proposes several significant recognition, measurement and disclosure changes to the models for life insurance accounting under GAAP, specifically impacting deferred acquisition costs and reserves, as well as additional related financial statement line items and disclosures. In summary, a significant portion of life insurers' balance sheets are affected with the new and proposed GAAP guidance.

With respect to the overlapping requirements for which the Commission's required disclosures are more expansive than the GAAP footnote disclosures, we recommend that these items be put on hold at this time. Given the significance of all changes currently being implemented and evaluated, the timing is inopportune for the life insurance industry to study and recommend or debate the ultimate disposition of overlapping disclosures. It would greatly benefit our industry if recommendations regarding these identified items be postponed. For the reasons the Commission identified in the Release, compliance with the additional footnote disclosure required by GAAP adds additional costs related to annual audit and interim review, scope of internal control over financial reporting, and XBRL. In addition, disclosures under GAAP previously made under S-K would no longer qualify for safe harbor protection afforded under the Private Securities Litigation Reform Act of 1995. We respectfully request that this portion of the project be deferred at this time, as we are not aware of any significant reporting issues related to these overlapping disclosures; i.e., if S-K requirements continue to be more expansive until such time as it would be most appropriate to address these items, the investors/users are not impacted, and the preparers continue under the current reporting requirements with respect to these items.

In summary, ACLI is concerned about the unintended consequence of eliminating Rule 7-02(b) and, at a minimum, requests that the SEC undertake a full analysis of the potential costs and benefits of doing so. More preferably, we request that the SEC postpone the elimination of Rule 7-02(b) until similar relief provided in the instructions of Forms N-3, N-4 and N-6 can be extended for insurance product offerings on Forms S-1 and S-3. In addition, we respectfully request postponing at this time the addressing of overlapping disclosures where the Commission's requirements are more expansive, as the life insurance industry is currently in the process of implementing and analyzing several significant new GAAP accounting pronouncements.

We appreciate the opportunity to express our views. Should you have any questions regarding our comments, please do not hesitate to contact me ([REDACTED]).

Sincerely,



Mike Monahan

Senior Director, Accounting Policy