



Will H. Fuller

Executive Vice President

President, Annuity Solutions,

Lincoln Financial Distributors & Lincoln Financial Network

Lincoln National Corporation

150 N. Radnor-Chester Road

Radnor, PA 19087-5221

February 13, 2019

Submitted Electronically

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

**Re: Comments of Lincoln Financial Group on the Proposed Summary
Prospectus Rule for Variable Contracts; File Number S7-23-18**

Dear Mr. Fields:

Lincoln Financial Group is the marketing name for Lincoln National Corporation and its affiliates (collectively, "Lincoln"). This letter is in response to the public request by the staff of the Securities and Exchange Commission (the "Commission") for comment on its proposal to modernize the disclosure framework for variable annuity and variable life insurance contracts ("variable contracts") by, among other things, permitting the use of summary prospectuses for variable contracts.

Lincoln believes it is critically important to help investors make informed investment decisions by providing them with plain-English disclosures that describe the applicable product's benefits, costs and risks in a format that is readily understandable. We support the Commission's efforts to modernize the framework for variable contract disclosures and believe that the rule proposal reflects a comprehensive and thoughtful approach for achieving this goal. We also support the staff's goal of "future-proofing" the new disclosure framework by considering the role of technology and the evolving ways in which investors receive information.¹ While we support the proposal, we have identified opportunities below to make the proposed rule even more impactful and enduring.

¹ Speech of Dalia Blass, Director of the Division of Investment Management, 2018 ALI CLE Conference on Life Insurance Company Products, Washington, DC, November 8, 2018 ("This rule – if it gets adopted – could be on the books for a long time. I don't want a rule that is going to be out of date the minute it is adopted – we want to future-proof it").

Lincoln Supports the Layered Disclosure Approach Reflected in the Proposed Rule

The Proposing Release² notes that variable contracts can be complex, that the structure and terminology relating to these products can be difficult for investors to understand, and that variable contract statutory prospectuses are often quite lengthy.³ In addition, variable contract statutory prospectuses are typically accompanied by prospectuses for all of the underlying mutual funds (either in statutory or summary form) that are available to the investor.⁴

We agree with the proposed rule's layered disclosure approach of permitting insurance companies to provide an initial summary prospectus at the time of sale and an updating summary prospectus to existing contract owners annually, provided that the more detailed statutory prospectus is available on the company's web site. This approach is consistent with changes the Commission previously made for mutual funds and ETFs, and now approximately 95% of mutual funds and ETFs offer a summary prospectus.⁵

The staff's proposal would lead to significant improvements in variable contract disclosures by providing investors with information in a more concise, reader-friendly format and would enhance the overall investor experience with respect to both purchasing and owning a variable contract. As Dalia Blass, the Director of the Commission's Division of Investment Management, remarked last fall, "[i]nstead of being confronted with the challenge of reading a telephone book of disclosure and figuring out what is relevant, this approach could allow investors to navigate the information in a way that responds to their needs."⁶

Importantly, the proposed rule would also make variable contracts more accessible to investors for whom a variable contract – offering a combination of capital markets exposure and insurance guarantees – might be in their best interest.⁷ Due to shifting demographics and the fact that most Americans no longer have a pension to rely on for retirement income, it is now

² "Proposing Release" refers to the Commission's release in connection with proposed Rule 498A, under the Securities Act of 1933, as amended ("Securities Act"), entitled "Updating Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts," Release Nos. 33-10569, 34-84508, IC33286, 83 Fed. Reg. 61730, Nov. 30, 2018. "Rule proposal" and "proposed rule" refer to proposed Rule 498A under the Securities Act.

³ Proposing Release, at 61732.

⁴ *Id.*

⁵ Speech of Dalia Blass, November 8, 2018, at n.5.

⁶ Speech of Dalia Blass, November 8, 2018.

⁷ Sixty percent of individual annuity owners have an annual household income of less than \$75,000. 2013 Survey of Owners of Individual Annuity Contracts, conducted by the Gallup Organization and Mathew Greenwald & Associates for the Committee of Annuity Insurers.

more important than ever to facilitate access to variable contracts, and in particular variable annuities with lifetime income guarantees, to help investors secure their financial future.⁸

Future-proofing the New Rule

“Future-proofing” the new rule by making it comprehensive – including disclosure reforms relating to both variable annuities and variable life insurance products – and by considering the role of technology makes good sense. However, there are three areas where the Commission should go even further to make the rule more enduring. The final rule should provide companies with flexibility to (1) evolve product terminology to be more plain-English; (2) deliver summary prospectuses, in addition to variable contract statutory prospectuses and underlying fund prospectuses, by making them available online; and (3) incorporate illustrations or examples into summary prospectuses.

First, the new rule should not require the use of specific terminology about variable contracts, or their features or benefits, in statutory or summary prospectuses. The rule should prescribe the underlying content of disclosures but should allow flexibility for companies to adjust to modern language and investor preferences, so they can design their disclosures to be as understandable and plain-English as possible. Certain industry terminology that has been used for decades might not make sense or be immediately recognizable to investors, in particular millennials who are now participating in the capital markets.

Over 65% of consumers surveyed said they have low confidence in their understanding of certain industry terms including “underwriting,” “living benefit,” “rider” and “guarantees.”⁹ The industry is currently working to identify alternative terminology that would help improve consumer understanding of variable insurance products. For example, as an alternative to “living benefit rider” with guaranteed income, Lincoln-sponsored research strongly indicates that “protected lifetime income benefit” would resonate more with consumers. The new rule should encourage companies to continue to identify and implement improved terminology, so long as the new terms are adequately defined in the appropriate sections of the prospectuses.

Second, the proposed rule takes a step in the right direction with its “access equals delivery” approach by allowing insurers to deliver variable contract statutory prospectuses and underlying mutual fund prospectuses by making them available online. To future-proof the rule,

⁸ More Americans are entering retirement, and are living longer in retirement, than in previous years, making variable annuities with lifetime income guarantees an even more important part of the available asset mix for retirement savers. Seventy-six million baby boomers are entering retirement at a rate of 10,000 per day. 2018 IRI Retirement Factbook, Insured Retirement Institute. In addition, a 65-year-old married couple has a 73% chance that one of them will live to age 90, a 47% chance that one of them will live to age 95, and a 20% chance that one of them will live to age 100. Society of Actuaries Longevity Illustrator, based on 2010 Social Security mortality tables applied to the MP-2015 SOA rates.

⁹ Get Real Already – Authenticating Industry Language, LIMRA/Maddock Douglas, Inc., 2015.

the Commission should go even further by also permitting delivery of summary prospectuses by making them available on the company's web site (provided paper copies are available upon request). Eighty-nine percent of Americans use the internet, and access is now available from virtually everywhere.¹⁰ Such an approach is more consistent with industry developments and the digital experience that investors increasingly expect.¹¹

Third, variable contract prospectuses, for decades, have consisted solely of often-dense information in a written format. The staff's goal of making information more understandable by proposing that certain key information be presented in an easy-to-read tabular format is a good first step, but the Commission should go even further by permitting the use of illustrations or examples in summary prospectuses. Often, investors prefer to learn about potential investment options, and understand them better, when they are provided with illustrations of product features and benefits.

For example, in the proposed form of initial summary prospectus, under the heading "Other Benefits Available Under the Contract," insurers would be required to include a table setting forth certain standard and/or optional benefits, including a summary of the benefit's purpose, fee (if any), and applicable restrictions. This section relates to, among other things, death benefits, living benefit riders and other optional benefits available under the contract. Short examples or illustrations would enable an investor to understand the key features of a product better than a table alone. In addition, it would be helpful for the Commission to issue guidance on the content permitted in summary prospectus illustrations or examples.

Variable Contract Fee Disclosures Should Be Treated the Same as Mutual Fund Fee Disclosures

Some of the required fee disclosures in the form of proposed initial summary prospectus are repetitive and potentially confusing to investors. Rather than requiring insurers to repeat certain fee-related information multiple times in the initial summary prospectus, the Commission should adopt the same approach it took with mutual fund summary prospectuses and require a single section that includes all applicable information regarding fees.

The proposed form of initial summary prospectus would require disclosures relating to base contract fees (also referred to as mortality and expense risk charges), portfolio company fees and expenses, and fees for optional benefits in a Key Information Table and, in addition, in other sections relating to "Additional Information About Fees" and "Other Benefits Under the Contract." As the first disclosure document that investors are likely to read as part of a layered

¹⁰ Internet/Broadband Fact Sheet, Pew Research Center (Feb. 5, 2018).

¹¹ To the extent that final Rule 498A does not permit insurance companies to deliver all disclosure documents, including summary prospectuses, by making them available online, at a minimum, the Commission should make it easier for investors to elect electronic delivery by making email the default manner for delivery.

disclosure approach, the initial summary prospectus should be clear and concise, not repetitive. There is a risk that repetitive information regarding fees could confuse investors as to whether the same fee specified in two separate sections is the same fee or two separate fees. The Commission took a sound approach with the mutual fund summary prospectus rule by requiring fees to be disclosed in one easy-to-reference section, and this approach should be mirrored with variable contract summary prospectuses.

In addition, the Commission should stay consistent with mutual fund summary prospectuses by keeping the assumed investment amount for fee-related disclosures for variable contracts at \$10,000 rather than increasing it to \$100,000 as the staff has proposed.¹² The reason for the proposed change, according to the Proposing Release, is that the average annuity contract recently exceeded \$100,000 in value.¹³ However, average account value is not equal to average initial investment amount. At Lincoln, the minimum purchase amount for variable annuities is \$10,000, and we believe that amount is appropriate and easily understandable to investors.

Moreover, changing the assumed investment amount for variable contracts to \$100,000 while keeping it at \$10,000 for mutual funds would place variable contracts at a competitive disadvantage and could cause confusion for investors. An investor comparing a variable annuity with a \$100,000 assumed investment amount and a mutual fund with a \$10,000 assumed investment amount might conclude, incorrectly, that the fees for the variable annuity are on a scale ten times more than the fees for the mutual fund. The investor may also erroneously conclude that she lacks access to guaranteed lifetime income products because she does not have \$100,000 to invest. The Commission should avoid this confusion by keeping the assumed investment amount for variable contracts at \$10,000.

Underlying Fund Performance Data

While Lincoln supports the goal of providing investors with clear and concise information in the summary prospectus, we do not believe summary prospectuses should include portfolio company performance histories. Performance histories would be difficult for insurers to gather from unaffiliated mutual fund complexes on a timely basis for inclusion in initial and updating summary prospectuses. Both variable contracts and mutual funds are required to update their registration statements by May 1 of each year. As such, it would be very difficult for insurers to timely obtain portfolio company performance data to be included with their variable contract updates that are filed with the Commission. In addition, any fund performance data included in summary prospectuses would quickly become stale. Up-to-date performance data is typically

¹² The current assumed investment amount in variable contract prospectuses pursuant to Form N-4 is \$10,000.

¹³ Proposing Release, at 61742, n. 113.

provided on both portfolio company and insurance company websites, making those better sources of current information.¹⁴

Discontinued Contracts

The staff has proposed a new framework for the treatment of a particular subset of discontinued variable contracts commonly known as “Great-West” contracts.¹⁵ These are discontinued variable contracts with fewer than 5,000 contract owners for which registration statements are no longer updated, and for which prospectuses are no longer delivered, in accordance with guidance provided in a line of Commission staff no-action letters dating back to 1977 (the “no-action letters”).¹⁶ In general, the staff’s proposed new framework would nullify Great-West relief for variable contracts discontinued after the effective date of new Rule 498A but would provide for the “grandfathering” of contracts previously designated for Great-West relief.

As noted in the Proposing Release, the Great-West approach alleviates the increasingly disproportionate costs that are uniquely borne by insurers when they are required to update registration statements and deliver updated prospectuses for small blocks of discontinued variable contracts.¹⁷ These disproportionate costs primarily arise from the fact that, unlike mutual funds and ETFs, variable contracts cannot be liquidated or unilaterally terminated by an insurer when they are no longer economically viable from the insurer’s perspective. By facilitating the ability of insurers to administer small blocks of discontinued variable contracts in an economically viable manner, Great-West has proven vital to the variable insurance industry and, by extension, to investors who own discontinued variable contracts.

For that reason, the Commission should not nullify or otherwise limit the no-action letters as part of new Rule 498A. The proposed summary prospectus and form amendments would not, without the continuing availability of Great-West relief, adequately relieve the burdens and costs associated with preparing annually updated statutory prospectuses and statements of additional information, maintaining registration statements, and delivering variable contract prospectuses (even in summary form) for small blocks of business.

¹⁴ Lincoln provides fund performance data relating to its variable contracts on its website and includes fees for many of its optional living benefit riders as part of overall performance, meaning that the performance shown could vary based on the optional living benefit selected. It would not make sense if insurers were required to include fund performance information in their summary prospectuses that is different from the fund performance (including fees) reflected on the company’s website.

¹⁵ Proposing Release, at 61769-75.

¹⁶ The staff no-action letters were issued to Great-West Life and Annuity Insurance Company and other insurers.

¹⁷ Proposing Release, at 61769-70.

Rather than nullifying or limiting the no-action letters, in new Rule 498A the Commission should codify the relief from the annual registration updating requirements that is currently provided in the no-action letters. In addition, the Commission should remove as a condition for Great-West relief that there be 5,000 or fewer contract owners. This limitation may have made sense when granting no-action relief to specific insurers, but there is no reason to include it in an industry-wide rulemaking. Finally, in keeping with the goal of modernizing its approach, the Commission should permit insurers to make updated audited financial statements for discontinued variable contracts available online (and available in paper form upon request).¹⁸

Filing Requirements for Summary Prospectuses

The Commission's initiative to permit summary prospectuses for variable contracts will result in tremendous value for investors. For that reason, the Commission should adopt a structure for approving summary prospectuses that would permit insurers to begin issuing summaries, and investors to begin receiving them, as quickly as practicable. We do not believe that insurers should be required to file a preliminary summary prospectus for each of their variable contracts during the insurer's implementation of summary prospectuses. Such a requirement would be unduly burdensome and time consuming, for both the staff and insurers, and would result in an unnecessary delay in providing summaries to investors.

As an alternative, the Commission should allow insurers to file, and obtain approval for, a "form of" or "template" summary prospectus under Rule 485(a) that could be filed for multiple contracts that are substantially similar to or meaningfully representative of each other under Rule 485(b)(1)(vii).¹⁹ This approach would maintain important investor protections while reducing the volume of reviews required of the staff and, at the same time, ensuring that investors are able to access summary prospectuses without undue delay.

¹⁸ If final Rule 498A were to nullify or limit Great-West relief on a going forward basis, it would be critical to grandfather discontinued contracts previously designated for Great-West relief. In addition, rather than making the cutoff date for grandfathered status the effective date of new Rule 498A, it would be more reasonable for the cutoff date to be the next May 1 that follows the effective date (unless the effective date falls between January 1 and April 30 in which case the cutoff date should be the May 1 of the following year). Finally, the Commission should clarify that grandfathered contracts will not lose their grandfathered status in the event of a material change to the contracts. Without that relief, insurers would be discouraged from making changes that benefit investors.

¹⁹ Rule 485(b)(1)(vii) under the Securities Act permits the Commission to approve the filing of a post-effective amendment to a registration statement under Rule 485(b) for a purpose other than those specifically enumerated in the rule. The staff has been delegated this authority by the Commission.

We would be happy to provide additional information or assist in any way we can with this important initiative.

Sincerely,

A handwritten signature in black ink that reads "Will H. Fuller". The signature is written in a cursive, flowing style.

Will H. Fuller
Executive Vice President
President, Annuity Solutions,
Lincoln Financial Distributors and Lincoln Financial Network