PACIFIC LIFE

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VIA EMAIL

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James Wrona
Associate Vice President and Associate General Counsel
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

RE: File No. SR-2008-019: Proposed Rule Change to Amend Rule 2821

Dear Mr. Wrona:

Thank you for the opportunity to comment on the Securities and Exchange Commission's ("SEC") proposed amendments to FINRA Rule 2821 governing deferred variable annuity transactions.

By way of background, Pacific Life Insurance Company is one of the top ten variable annuity issuers in the United States, with $51 billion in annuity net assets. We distribute our variable annuity products solely through over one thousand independently registered broker-dealers. While Pacific Life is not a member of FINRA and thus not directly subject to Rule 2821 compliance, we are concerned about the impact the proposed amendments could have on the administration of our business, our relationships with the selling firms and, ultimately, with the owners of our variable annuity contracts.

FINRA's proposed amendments would primarily change three aspects of Rule 2821 as it was finalized last year, namely they would: 1) extend the time for principal review and approval of variable annuity transactions by giving registered principals seven days to review the transaction starting from the date the signed application is received in good order at the member firm's office of supervisory jurisdiction ("OSJ"); 2) eliminate the requirement for principal review of non-recommended

transactions; and 3) allow broker-dealers to deposit purchase payments with the insurer while the registered principal reviews the transaction for suitability.

We have the following comments about these proposed changes:

1) Extension of time for principal review: In our opinion, it would be more appropriate for the seven day review period to start when the signed application is received by any office of the broker-dealer firm, rather than by the OSJ. Receipt would include instances where a representative takes an application in the field. We believe that transactions must be processed timely and possible delays in the submission of the application for principal review should be vigorously discouraged. Seven business days from the date a completed variable annuity application is taken by a registered representative is ample time for the requisite principal review. Allowing an unlimited time frame for a representative to hold an application prior to submitting it for review is unnecessary and would potentially harm investors should their purchase payments not be invested in the market in a timely fashion. This could create a situation where broker-dealers would be pressured by customers to back-date transactions to the date that the application and purchase payments were received in good order by the broker-dealer, but may have experienced a delay in the principal review process.

2) Limiting principal review to recommended transactions only: We understand that this change is being suggested to facilitate the processing of sales made directly by the insurer with no registered representative involved. We think it would be helpful to clarify that a "non-recommended transaction" is a direct sale, i.e., one where no sales related compensation is paid and no registered representative is involved.

   This is an additional concern because insurers are subject to state regulation regarding the suitability of annuity sales. FINRA member firms already have the obligation for suitability determinations and supervision, which state regulation generally recognizes by relieving insurers of direct suitability supervisory responsibility for variable annuity transactions. If principals of FINRA member firms are not required to review non-recommended variable annuity transactions, the insurer will arguably have a greater direct responsibility under state law and, in the context of variable sales, will not know if a transaction is recommended or not.

3) Purchase payment deposits with the insurer during principal review: We understand that this change was suggested to accommodate insurers with affiliated broker-dealers. We strongly recommend that if this provision remains in the Rule, it be made clear that purchase payment deposits are allowed to be made with insurers only in that limited circumstance. From our perspective, this is necessary because, while the proposed amendment

suggests that this would not be a common arrangement and makes it a matter of agreement between the broker-dealer firm and the insurer, we anticipate that some independent broker-dealer firms may pressure insurers to enter into these types of agreements and it would become more common than the drafters of the rule amendments contemplated.

This is a concern for several reasons. Most troubling is that it would heighten money laundering risks. If registered representatives are routinely allowed to forward annuity purchase payments to the insurer before principal review has taken place, the insurer would be accepting payments with little identifying information about the payer and with no way to know if the broker-dealer had completed its own anti-money laundering analysis and customer identification verification. In this situation, an applicant can instruct the insurer to refund his/her money at any time before principal suitability and money laundering reviews have been completed.

The proposed change would also create substantial administrative problems for the insurer. We understand proponents of this change argue that insurance companies already have suspense accounts where clients' funds are held and that these accounts could be used to deposit clients' funds during principal review. Pacific Life does utilize a "suspense account" to temporarily house contract owners' funds when they can't be applied immediately, but this is not a separate account; it is merely an accounting entry in our general account called "suspense" and therefore, would not meet the requirements under the amended Rule. Instead, the amendment as drafted would require us to set up and maintain unique bank accounts for each of the firms that deposited purchase payment checks with insurers during principal review.

Additionally, the insurer remains subject to the requirements of SEC Rule 22c-1(c) whereby the insurer must process an order to purchase within 2 days of receiving an application in good order, but can hold purchase payments no longer than 5 days if good order is not achieved, unless first obtaining the applicant's consent. Insurers would therefore need to obtain client approval for every single initial purchase payment submitted by a registered representative for an annuity application during the seven day principal review period. This does not seem to be an intended result, particularly in light of the fact that the SEC has provided broker-dealers with an exemption from Rule 15c3-3, in that broker-dealers can accept checks made out to an insurance company and keep the check with the application until it has been reviewed and approved without running afoul of the timing requirements. No similar exemption from SEC Rule 22c-1(c) has been made.

In conclusion and for the reasons provided above, we urge the SEC to:

1. Clarify that the seven business day review period begins when a signed application has been taken by the representative and received by the broker-dealer, not specifically by the OSJ;

2. Clarify that a "non-recommended transaction" is one where no registered representative is involved and no compensation is paid; and

3. Clarify that the purchase payment for an annuity transaction under principal review can be forwarded to the insurance company before principal approval only when the broker-dealer is an affiliate of the insurance company.

Thank you for consideration of our views.

Sincerely,

Cheryl Tobin
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