

January 3, 2014

VIA E-MAIL

Ms. Elizabeth M. Murphy  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: File No. SR-FINRA-2013-051  
Notice of Filing of a Proposed Rule Change to Amend the Uniform  
Branch Office Registration Form (Form BR)**

Dear Ms. Murphy:

We are submitting this letter on behalf of our client, the Committee of Annuity Insurers (the "Committee"),<sup>1</sup> in response to the *Notice of Filing of a Proposed Rule Change to Amend the Uniform Branch Office Registration Form (Form BR)* ("Proposal Notice") issued by the U.S. Securities and Exchange Commission (the "SEC") on December 9, 2013.<sup>2</sup>

**OVERVIEW OF PROPOSED FORM CHANGES**

The Proposal Notice solicits comment on changes to Form BR (the "Updated Form BR") proposed by the Financial Industry Regulatory Authority, Inc. ("FINRA"). The Proposal Notice would eliminate Section 6 of Form BR, add questions relating to space sharing arrangements and the location of books and records, modify existing questions and instructions with a view to

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<sup>1</sup> The Committee of Annuity Insurers is a coalition of 28 life insurance companies that issue fixed and variable annuities. The Committee was formed in 1982 to participate in the development of federal securities law regulation and federal tax policy affecting annuities. The member companies of the Committee represent more than 80% of the annuity business in the United States. A list of the Committee's member companies is attached as Appendix A. Committee members typically have one or in many cases several affiliated broker-dealers that are engaged in the distribution of annuity products. Together these broker-dealers represent a sizeable portion of the brokerage industry. In some cases, the broker-dealer activity is limited to acting as a principal underwriter of variable annuities. In many other cases, however, member broker-dealers engage in retail sales activity. Such activity generally involves the sale of annuities and other insurance products as well as mutual funds and 529 plans. They generally clear their securities business on a fully disclosed basis. Committee member broker-dealers engaged in retail sales activity are often dually-registered as investment advisers or affiliated with registered investment advisers, and their registered representatives may also provide advisory services through independently-owned investment advisers. Registered representatives of Committee broker-dealers are dually-licensed as insurance agents in connection with their sales of insurance products.

<sup>2</sup> The Proposal Notice was published in SEC Release No. 34-71027, 78 Fed. Reg. 75954 (December 13, 2013).

eliciting more detailed information about the types of activities conducted at the branch office, add an optional question to identify a branch office as an “Office of Municipal Supervisory Jurisdiction,” as defined under MSRB rules, and make other technical changes.

## COMMITTEE COMMENTS

The Committee is providing comments regarding the Updated Form BR’s new question relating to space sharing and joint marketing arrangements. Specifically, FINRA is proposing to add a new question to proposed Section 4 (Branch Office Arrangements) of the Updated Form BR that will ask members to disclose if the branch office occupies, shares space with or jointly markets with any other investment-related entity, and if the answer is yes, to provide the name of such entity. In this regard, the Updated Form BR asks members to disclose the type of investment-related entity with which space sharing or joint marketing occurs, and included within the types of investment-related entities are “insurance” entities.

**Comments on Section 4 of Updated Form BR.** The Committee believes that FINRA has underestimated the challenges and expenses certain firms such as insurance-affiliated broker-dealers would face to accurately and efficiently disclose the insurance entities with which they have entered into space-sharing and joint marketing arrangements. In the Committee’s experience, information regarding space-sharing arrangements of the type contemplated by Section 4 is not readily maintained by insurance-affiliated and other types of member firms, and as a result collecting the required information could prove to be a burdensome exercise. In the event that the SEC moves forward and Updated Form BR is adopted, the Committee requests that a significant amount of time be provided to member firms before the effective date to allow them to prepare for the process of collecting the new information required under the new Form BR.

The Committee also believes the Updated Form BR is unclear as to the scope of the obligation under the Updated Form BR for broker-dealers to identify insurance entities with which it “jointly markets” products. For example, it is unclear whether Updated Form BR is focusing solely on joint marketing (and space sharing) with insurance intermediaries (e.g., insurance agencies) or also insurance product issuers. We note that the amendments to Section 4 are basically added into a section that collected information on bank networking relationships with broker-dealers, which do not necessarily mimic the relationship that a broker-dealer’s branch office might have with (1) an insurance intermediary, and/or (2) an insurance company issuer. As a result, the manner in which the Updated Form BR is drafted could be read to suggest that a firm is required to report *every* insurance product manufacturer that *each* branch office is authorized to offer as they could be viewed as “jointly marketing” the insurance products with the issuing insurer. Given the many different types of insurance products available, and the number of insurers that typically have selling arrangements with a given insurance intermediary, this could be an extremely large volume of information that a broker-dealer is required to sort through and identify on a branch-by-branch basis. Furthermore, it is unclear to the Committee how all that detailed information would be helpful to the proposed purpose of the revisions; it seems more likely to have the effect of overloading regulators with

too much information on too many insurance entities rather than to “allow regulators and firms to better understand the activities occurring at each registered branch office.”

Accordingly, the Committee believes that before advancing the Updated Form BR’s new question regarding space sharing and joint marketing arrangements, FINRA should further investigate the compliance-related burdens that the question will create for member firms, and should clarify the question’s scope with respect to insurance entities. While the Proposal Notice states that the changes reflected in the Updated Form BR were the result of a recent review of the form by FINRA and a committee of representatives from industry, NASAA and participating states (the “Form BR Working Group”), the Committee questions whether the Form BR Working Group included insurance-affiliated broker-dealers and fully considered how the Updated Form BR might affect such member firms’ sale of insurance products.

To this point, the only justification provided by FINRA for the Updated Form BR is a statement in the Proposal Notice that the Form BR Working Group believes that the Updated Form BR is appropriate and will result in efficiencies for firms and regulators. As explained above, the Committee does not believe that the Updated Form BR will result in efficiencies for firms that have entered into space-sharing or joint marketing arrangements with insurance entities, and thus requests that FINRA reevaluate and explain the need for and scope of the Updated Form BR’s new question regarding such arrangements.

**Technical Comments.** The Committee also has several technical comments on the language in Section 4 of Updated Form BR. The Committee suggests that the request for the CRD number in Section 4(a) clarify that the Form BR is not calling for the CRD Branch Number but rather the CRD number of the investment related entity (if applicable). In addition, the Committee suggests that the column in Section 4(a) currently titled “Name” be revised to “Name of Investment Related Entity” for additional clarity.

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The Committee appreciates this opportunity to comment on the Updated Form BR. If SEC or FINRA staff believe it would be helpful to discuss our comments on the Updated Form BR in person, we would be pleased to meet with you for discussions at your convenience. Please do not hesitate to contact Cliff Kirsch (██████████) or Eric Arnold (██████████) if you have any questions.

Respectfully submitted,

  
Clifford Kirsch

  
Eric A. Arnold

## APPENDIX A

### COMMITTEE MEMBERS

AIG Life & Retirement  
Allianz Life  
Allstate Financial  
Athene USA  
AXA Equitable Life Insurance Company  
Commonwealth Annuity and Life Insurance Company  
Fidelity Investments Life Insurance Company  
Genworth Financial  
Great American Life Insurance Co.  
Guardian Insurance & Annuity Co., Inc.  
ING North America Insurance Corporation  
Jackson National Life Insurance Company  
John Hancock Life Insurance Company  
Life Insurance Company of the Southwest  
Lincoln Financial Group  
MassMutual Financial Group  
Metropolitan Life Insurance Company  
Nationwide Life Insurance Companies  
New York Life Insurance Company  
Northwestern Mutual Life Insurance Company  
Ohio National Financial Services  
Pacific Life Insurance Company  
Protective Life Insurance Company  
Prudential Insurance Company of America  
Symetra Financial Corporation  
The Transamerica companies  
TIAA-CREF  
USAA Life Insurance Company