



DIVISION OF
INVESTMENT MANAGEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

PUBLIC

June 4, 1996

ACT SA
SECTION _____
RULE 481
PUBLIC _____
AVAILABILITY 6/4/96

Mr. Mark J. Mackey
President & Chief Executive Officer
National Association for Variable Annuities
12030 Sunrise Valley Drive, Suite 110
Reston, Virginia 22091

Dear Mr. Mackey:

We have reviewed NAVA's "Guidelines for the Variable Annuity Profile" ("Guidelines") and your accompanying letter, which are attached. The Guidelines describe eleven disclosure items to be included in a variable annuity profile, including information regarding the variable annuity contract, annuity payments, purchase procedures, investment options, expenses, tax treatment, withdrawal procedures, performance, and death benefit. In order to provide consistency and easy comparability with other variable annuity profiles, the Guidelines specify the order in which the eleven disclosure items must appear in a variable annuity profile and how those items must be presented. The contents of a variable annuity profile are limited to the information set forth in the Guidelines. Under the Guidelines, a variable annuity profile will be part of the prospectus constituting Part A of a variable annuity registration statement on Form N-4. The variable annuity profile will either accompany, or be attached to, the prospectus required under Section 10(a) of the Securities Act of 1933 ("Securities Act").

The General Instructions for Parts A and B in Form N-4 state that the information in the prospectus need not be in any particular order, except that disclosure responding to Items 1 (cover page), 2 (definitions), 3 (synopsis, including fee table), and 4(a) (condensed financial information) must be in numerical order in the prospectus and may not be preceded or separated by any other item. Rule 481 under the Securities Act specifies certain items of information that are required to appear on the outside and inside cover pages of any prospectus relating to a registration statement of an investment company.

Some variable annuity contracts offer an additional investment option pursuant to which contract owners receive a guaranteed rate of interest for a specified period, subject to a so-called "market value adjustment" in the event of early withdrawal. The "market value adjustment" typically reflects the difference between the guaranteed rate of interest and interest rates at the time of withdrawal. The "market value adjustment" feature may be

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registered with the Commission under the Securities Act on Form S-1, S-2, or S-3. 1/ These Forms require that certain information be set forth on the cover page of the prospectus. 2/

Although the variable annuity profile was not contemplated when Form N-4 or rule 481 was adopted, we believe that the use of a variable annuity profile is consistent with the policies underlying the Form and the rule. 3/ Therefore, the staff would not recommend enforcement action to the Commission for failure to comply with the sequence requirements of Form N-4 or rule 481, if a registrant, within the time frame described below, uses a variable annuity profile meeting the requirements in the Guidelines. Nor would we recommend enforcement action to the Commission for failure to comply with the cover page requirements of Form S-1, S-2, or S-3, when the variable annuity contract offers an additional investment option with a "market value adjustment" feature, if a registrant uses a variable annuity profile meeting the requirements in the Guidelines. The staff's positions are in no way intended to alter the other requirements of Form N-4, S-1, S-2, or S-3 or rule 481 applicable to a registrant.

Your letter states that variable annuity registrants may desire to use a mutual fund profile for each underlying mutual fund option for which a profile is available, in addition to providing investors with the full prospectus for the underlying mutual fund. 4/ You also state that these variable annuity registrants may desire to arrange the order of the variable annuity profile, mutual fund profiles, and full prospectuses, so that the variable annuity and mutual fund profiles are placed together, in front of the full variable annuity and mutual fund prospectuses. We believe that this use of the variable annuity profile and mutual fund profiles is consistent with the policies underlying Forms N-1A, N-4, S-1, S-2, and S-3 and rule 481. Therefore, the staff would not recommend enforcement action to the Commission

1/ The staff has taken the position that a separate account established to support liabilities relating to an investment option with a "market value adjustment" feature typically need not be registered under the Investment Company Act of 1940. See Equitable Life Assurance Society of the U.S. (pub. avail. Dec. 22, 1995); Hartford Life Insurance Co. (pub. avail. Oct. 29, 1984). Registration statements on Form S-1, S-2, or S-3 relating to "market value adjustment" features are reviewed by the Commission's Division of Investment Management because of their similarity to registration statements for variable annuity contracts.

2/ See, e.g., Item 1 (Forepart of the Registration Statement and Outside Front Cover Page of Prospectus) and Item 2 (Inside Front and Outside Back Cover Pages of Prospectus) of Form S-1.

3/ See Investment Company Act Release No. 14575 (June 25, 1985) (adopting Form N-4).

4/ See Letter from Jack W. Murphy, Chief Counsel and Associate Director, Division of Investment Management, to Paul Schott Stevens, General Counsel, Investment Company Institute (pub. avail. July 31, 1995) (no-action relief for mutual fund profiles).

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for failure to comply with the sequence requirements of Form N-4, S-1, S-2, or S-3, or rule 481, if a registrant uses one or more mutual fund profiles in conjunction with its own variable annuity profile in the manner described above. In addition, we would not recommend enforcement action to the Commission, with respect to an underlying mutual fund, for failure to comply with the sequence requirements of Form N-1A or rule 481, if the underlying mutual fund makes its profile available to variable annuity registrants for use in the manner described.

You state that the information contained in the variable annuity profile is by its nature similar to the narrative information that currently appears in the summary or highlights section of most variable annuity prospectuses, as required by Item 3(b) ("Synopsis of Information") of Form N-4. Avoiding duplication of information is consistent with the policies underlying Form N-4. Therefore, we would not recommend enforcement action to the Commission if a registrant that uses a variable annuity profile omits from its prospectus the information required by Item 3(b) of Form N-4.

Furthermore, you request the staff to confirm that it will not object if a variable annuity profile is filed either as a supplement under rule 497 or as a post-effective amendment under rule 485(b). The staff will not recommend enforcement action to the Commission under the Securities Act on the basis that a registrant files a variable annuity profile meeting the requirements in the Guidelines as a supplement to its then-current prospectus pursuant to rule 497(e), provided that the variable annuity profile also is included in the next post-effective amendment to the registrant's registration statement. Additionally, the staff will not recommend enforcement action to the Commission under the Securities Act on the basis that a registrant includes a variable annuity profile meeting the requirements of the Guidelines as part of a post-effective amendment to its registration statement pursuant to rule 485(b)(1)(vii). ^{5/} The registrant or counsel to the registrant must make a written representation under rule 485(b) that the post-effective amendment (including the variable annuity profile) does not contain disclosure that would render it ineligible to be declared effective under paragraph (b).

The use of variable annuity profiles is being undertaken initially as an experiment for a period of one year. During that period, the Division intends to monitor the industry's use of variable annuity profiles to assess whether investors find them helpful in deciding to invest in a variable annuity. The no-action positions taken in this letter will be effective only for a period of one year from the date of this letter, unless otherwise extended. Additionally, to

^{5/} Post-effective amendments that contain only routine updating changes become effective automatically pursuant to rule 485(b). Pursuant to paragraph (b)(1)(vii) of rule 485, a registrant may file a post-effective amendment that contains any non-material changes that the registrant deems appropriate.

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assist us in this monitoring, and as a condition to the no-action relief granted by this letter, each registrant that uses a variable annuity profile must send or deliver a copy of its current prospectus, including the variable annuity profile, to the Division of Investment Management, Office of Insurance Products, Attention: Assistant Director. This copy will be in addition to filings required to be made with the Commission.

Finally, the relief granted by this letter is available to any variable annuity issuer that wishes to provide a variable annuity profile with its prospectus, provided it conforms to the Guidelines and the conditions to the relief set forth above.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heidi Stam".

Heidi Stam
Associate Director



National Association for Variable Annuities

Mark J. Mackey
President & Chief Executive Officer

March 19, 1996

Barry P. Barbash
Director
Division of Investment Management
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

RE: Variable Annuity Profiles

Dear Mr. Barbash:

The National Association for Variable Annuities, Inc. ("NAVA") is pleased to submit to the staff of the Securities and Exchange Commission ("Commission") proposed general guidelines for the use and preparation of the variable annuity "Profile."* The purpose of the variable annuity Profile is to provide consumers with a consistent and readable document that allows easy comparability with other Profiles. These guidelines were developed by NAVA's Regulatory Affairs Committee ("Committee").

NAVA hereby respectfully requests confirmation of the manner in which the Profiles will be formatted and filed under the Commission's rules. We believe that the variable annuity Profile presents somewhat different issues than the mutual fund profile which you have recently considered. In addition, we believe that the nature of a variable annuity contract requires that there be more flexibility. The following are those issues which we respectfully request you consider in your review of this matter.

Part of Prospectus

The accompanying "Guidelines for the Profile" ("Guidelines") provide that a Profile will be part of the prospectus constituting Part A of a variable annuity registration statement on Form N-4, either by accompanying, or being attached to, the prospectus required by Section 10(a) of the Securities Act of 1933 ("Securities Act").

*NAVA is a non profit association which represents the variable annuity and variable life insurance industry. It has over 250 members, including distributors, third-party administrators, service providers, and insurance companies representing the major segment of the variable insurance market.

The General Instructions for Part A of Form N-4 state that the information in the prospectus need not be in any particular order, except that disclosure responding to Items 1 (cover page), 2 (definitions), 3 (synopsis, including expense table and examples) and 4(a) (condensed financial information) must be in numerical order in the prospectus and may not be preceded or separated by any other item. Rule 481 under the Securities Act specifies certain items of information that are required to appear on the outside cover page of any prospectus relating to a registration statement of an investment company.

Some variable annuity contracts offer an additional investment option that contains a market value adjustment feature. The portion of the contract that is subject to the market value adjustment may be registered with the Commission on Forms S-1, S-2 or S-3. These Forms require that certain information be set forth on the cover page of the prospectus.

We respectfully request confirmation that the staff would not recommend enforcement action to the Commission for failure to comply with the sequence requirements of Form N-4 or Rule 481, if a registrant uses a Profile meeting the requirements of the Guidelines. We further request confirmation that the staff would not recommend enforcement action to the Commission for failure to comply with the cover page requirements of Forms S-1, S-2 or S-3, when the variable annuity contract contains a registerable market value adjustment feature, if a registrant uses a Profile meeting the requirements of the Guidelines.

Use of Fund Profiles

Variable annuity registrants may desire to utilize a Profile for each of the underlying funding options, if available, in addition to providing investors with the full prospectus for such funding options. These registrants may also desire to arrange the order of the Profiles and full prospectuses so that the Profiles are distributed together. Therefore, we respectfully request confirmation that the staff would not recommend enforcement action to the Commission for failure to comply with the sequence requirements of Forms N-4, S-1, S-2 or S-3 or Rule 481, if a registrant uses a fund Profile or Profiles (meeting the "Instructions for Profile" described in your letter to Paul Schott Stevens, dated July 31, 1995) in conjunction with their own variable annuity Profile. We further request confirmation that the staff would not recommend enforcement action to the Commission, with respect to an underlying fund, for failure to comply with the sequence requirements of Form N-1A or Rule 481 if the fund makes its Profile(s) available to variable annuity registrants that utilize the fund as an underlying investment.

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Impact on Synopsis

The information in the Profile is by its nature similar to that which currently appears in the summary or highlight sections of most variable annuity prospectuses.

We understand, and the Guidelines clearly state, that the information required by Items 3(a) and 4(a) must still be included in the full prospectus where required by Form N-4. Nevertheless, registrants, particularly those who are developing simplified prospectuses, may desire to omit the information required by Item 3(b) of that Form ("Synopsis of Information").

Therefore, we respectfully request confirmation that the staff would not recommend enforcement action to the Commission if a registrant utilizing a Profile omits the information required by Item 3(b) of Form N-4.

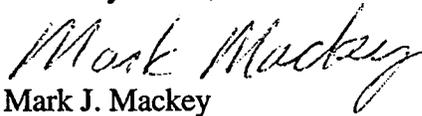
Filing Requirements

We also respectfully request confirmation that the staff will not object if the Profiles are filed as part of the registrant's registration statement and will permit the filing of a Profile either as a supplement under Rule 497 under the Securities Act or as a post-effective amendment to a registration statement under Rule 485(b) of that Act (if the amendment otherwise meets the requirements of Rule 485(b)). We also request confirmation that the next post-effective amendment to a registration statement that includes the Profile may be filed under Rule 485(b) (if the amendment otherwise meets the requirements of Rule 485(b)).

On behalf of the Committee and the full membership of NAVA, I want to thank you for the Division's efforts towards development of the Profile.

If you or your staff have any questions about the enclosed, or wish to discuss it, please contact any of the following: Susan L. Harris, (SunAmerica Inc., 310-772-6540); Judith A. Hasenauer (Blizzard, Grodd & Hasenauer, P.C., 954-921-4041), or myself (703-620-0674). Ms. Harris and Ms. Hasenauer jointly chair the Committee.

Sincerely Yours,


Mark J. Mackey

GUIDELINES FOR THE VARIABLE ANNUITY PROFILE
March 19, 1996

Purpose. The purpose of the Profile is to provide consumers with a consistent and readable document that allows easy comparability with other Variable Annuity Profiles.

General. A Profile will be considered part of the prospectus which constitutes Part A of a registration statement on Form N-4 under the securities laws. It should be used in one of the following formats: (i) as a prospectus "wrapper," or (ii) as a separate document that would accompany the full prospectus. The full prospectus may omit the information required by Item 3(b) ("Synopsis of Information") if a Profile is used. The information required by Items 3(a) and 4(a) of Form N-4 must be included in the full prospectus where required by Form N-4.

The name of the life insurance company and type or name of annuity contract (*e.g.*, "Variable and Fixed Annuity Contract" or "Immediate Variable Annuity Contract" or "ABC Variable Annuity") must appear prominently at the beginning of the document. The document should be prominently identified as a "Profile" (either alone or in conjunction with the name or type of contract, *e.g.*, "Variable Annuity Contract Profile") at the beginning of the document to inform the reader as to the nature of the document. Reference to a "Profile Prospectus" should not be made. The Profile must be dated. The following legend must appear prominently in the Profile:

This Profile is a summary of some of the more important points that you should know and consider before purchasing the Contract. The Contract is more fully described [later in this Prospectus][in the full Prospectus which accompanies this Profile]. Please read the prospectus carefully.

A Profile must include the eleven disclosure items in the order listed. In the interest of standardization, all items must be numbered. Include the appropriate heading, although a heading may be presented in the form of a question (*e.g.*, "How to Purchase?").

The contents of the Profile must be limited to the information set forth in these Guidelines. Additional information, or more detailed responses to the items listed, may only be disclosed in a separate document (except for any legends that may be required by law). Except as discussed below and the legend above, the Profile should not contain cross-references to the full prospectus or to any other document. The use of footnotes should be avoided, if possible.

The purpose of the Profile is to provide a summary of the essential information about the variable annuity contract in a way that is understandable by the average investor. **THE PROFILE MUST BE CLEAR, CONCISE AND UNDERSTANDABLE. THE USE OF TECHNICAL OR LEGAL TERMS, COMPLEX LANGUAGE, OR EXCESSIVE DETAIL SHOULD BE AVOIDED.**

Disclosure Items. The disclosure items are as follows:

1. **The Annuity Contract.** Briefly describe the variable annuity contract(s) offered by the prospectus, including the investment risks borne by the investor. Describe the accumulation phase and the annuity phase. State that the amount of money accumulated during the accumulation phase will determine the amount of annuity payments during the annuity phase. If a general account option is offered, the registrant can so indicate.
2. **Annuity Payments.** State on what basis the Contract can be annuitized, *i.e.*, fixed only, variable only, or fixed and variable. Briefly describe the annuity options.
3. **Purchase.** Briefly describe how to purchase the Contract. Describe any minimum purchase payments. Describe who can purchase the contract.
4. **Investment Options.** State the name of each portfolio or series available as an investment option under the contract. A detailed explanation of the structure of the separate account, sub-accounts and underlying funds is not necessary and should be avoided.
5. **Expenses.** This section has two components. First, it should set out, in a narrative, all of the charges assessed under the Contract including the charges assessed at the underlying fund level. Registrants may, but are not required to, list separately the components of their insurance charge (*e.g.*, if the separate account asset charges are 1.4%, the registrant may state that 1.25% is for mortality and expense risk and .15% is for administration). Registrants may use a table to describe any contingent deferred sales charge if the use of such a table makes the information more understandable to the investor. The second component is a chart which sets forth by portfolio or series the charges under the contract. The first column should show the total annual insurance charges (including any contract maintenance charge converted to a percentage). The second column should show the total annual portfolio charges. The third column should be the total annual charges under the contract and is calculated by aggregating the charges set forth in the first two columns. The fourth and fifth columns contained in the chart are examples which show the expenses, including any contingent deferred sales charges, incurred under the contract for 1 year and for 10 years. The instructions contained in Form N-4, Item 3(a) with respect to the calculation of the examples are to be referred to in determining how to calculate the examples contained in the Profile. This item should contain a cross-reference to the complete fee table contained in the prospectus. If there were expense reimbursements or fee waiver arrangements that reduced any operating expenses, the fact that such reimbursements or waivers exist should be disclosed. Do not show the amount the expenses would have been absent the reimbursement or waiver. Footnotes should not be used in preparing the chart required by this Item.
6. **Taxes.** Briefly describe the tax laws applicable to the Contract.

7. Access To Your Money. Briefly describe the conditions under which an owner can withdraw some or all of the value of his or her contract. Include a brief description of any deferred sales charge, including any waivers, and a statement that the withdrawal may be subject to income tax and to a tax penalty.

8. Performance. Present in tabular format the total return, set forth as a percentage, for each investment option for each of the last 10 calendar years (or less if inception date is less than ten years previous). Performance figures should be shown for complete years only (no stub period performance). In determining total return include the effect of all recurring expenses such as any contract maintenance fee. Do not include front end or deferred sales charges in the total return calculation. The total amount of the charges included in this Item should equal the total annual charges set forth in the third column of the chart required by Item 5. Include a statement identifying the expenses that have been included in determining the total return percentages and that past performance does not guarantee future results. If applicable, disclose that the performance figures do not reflect front end or deferred sales charges imposed under the contract and that if such charges were reflected, they would have the effect of reducing performance. No other performance figures may be shown in response to this Item.

9. Death Benefit. Briefly describe the death benefit under the Contract.

10. Other Information. Registrants should briefly describe any other information they deem relevant to purchasers. The following are examples of such items: any free look provisions, whether the contract is a group or individual contract, any additional contract features (e.g., dollar cost averaging, systematic withdrawals, and nursing home or terminal illness riders). Registrants should take caution in drafting this section in that it should not add unnecessarily to the length of the Profile. Confusing names should not be used without explanation.

11. Inquiries. State the address and telephone numbers where interested persons can call or write to obtain more information.