



DIVISION OF  
INVESTMENT MANAGEMENT

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

January 11, 2022

**VIA ELECTRONIC MAIL**

RESPONSE OF CHIEF ACCOUNTANT'S OFFICE  
DIVISION OF INVESTMENT MANAGEMENT

Robert Cohen  
McDermott Will & Emery  
Email: rcohen@mwe.com

Re: Union Security Insurance Company

By letter dated December 30, 2021, you request permission under Regulation S-X §3-13 (“Rule 3-13”) for Union Security Insurance Company (“Union Security”) to file audited financial statements prepared in accordance with statutory accounting principles<sup>1</sup> (“SAP”), in place of financial statements prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”), in registration statements on Form S-1 (the “Form S-1 Registration Statements”) in satisfaction of the financial information required by Form S-1, including the requirements of Items 11(e), 11(g), and 16(b) of Form S-1, in connection with the registration of market value adjustments on general investment options (“MVAs”) offered by the Contracts (as defined in your letter). Union Security has filed registration statements on Form S-1 to register the MVA feature in the Contracts (“Form S-1 Registration Statements”).

**Background**

Union Security

You state that Union Security is a Kansas stock life insurance that is subject to supervision by the Kansas Insurance Department (“KID”). You also state that Union Security is owned by Preneed Holdings, LLC, which is a wholly owned subsidiary of CMFG Life Insurance Company (“CMFG Life”). You further state that CMFG Life is owned by TruStage Financial Group, Inc.,

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<sup>1</sup> You note that these principles are those that are prescribed or permitted by Union Security’s domiciliary state regulator.

which is owned by the ultimate parent, CUNA Mutual Holding Company, a mutual insurance holding company domiciled in the state of Iowa.

You state that Union Security must prepare full entity level GAAP financial statements only in connection with issuing the Contracts.<sup>2</sup> You further state that Union Security provides limited GAAP financial information to certain parent companies for use in their consolidated financial statements, and that this financial information does not constitute a GAAP reporting package or partial GAAP financial statements.

You state that Union Security relies on and will continue to comply with the exemption from filing periodic reports required by the Securities Exchange Act of 1934 (the “Exchange Act”) provided by rule 12h-7 under the Exchange Act.<sup>3</sup> In this regard, you note that (1) Union Security is subject to supervision by the insurance commissioner of the KID; and (2) Union Security files an annual statement of its financial condition with, and its financial condition is periodically examined by, the KID.<sup>4</sup>

### The Contracts

You state that the Contracts are individual or group tax-deferred variable annuity contracts that have a general account investment option with an MVA. You further state that the Contracts are no longer available for new sales, and that there are no plans for Union Security to offer new registered products.

You state that (1) the MVAs do not constitute an equity interest in Union Security and are subject to regulation under Kansas insurance laws, Union Security’s domiciliary state;<sup>5</sup> (2) the MVAs are not and will not be listed, traded or quoted on an exchange, alternative trading system,

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<sup>2</sup> You state that if Union Security receives the permission requested in your letter, the Union Security financial statements filed for its closed block of Contracts registered on Form N-4 will be prepared on a SAP basis as permitted by that form.

<sup>3</sup> Rule 12h-7 exempts insurance companies from filing Exchange Act reports with respect to certain specified types of securities that are subject to state insurance regulation and are registered under the Securities Act of 1933 if certain other conditions are satisfied. 17 CFR 240.12h-7.

<sup>4</sup> Rule 12h-7(a) and (c) specify that an issuer qualifying under the rule is a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State (as defined in the Exchange Act); and files an annual statement of its financial condition with, and is supervised and its financial condition examined periodically by, the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of the issuer's domiciliary State.

<sup>5</sup> Rule 12h-7(b) specifies that the securities that would otherwise trigger Exchange Act reporting obligations must not constitute an equity interest in the issuer, and must either be securities subject to regulation under the insurance laws of the domiciliary State of the issuer or guarantees of securities that are subject to regulation under the insurance laws of that jurisdiction.

inter-dealer quotation system, electronic communications network, or any other similar system, network or publication for trading or quoting, and Union Security will take steps reasonably designed to ensure that a trading market for the MVAs does not develop,<sup>6</sup> and (3) prospectuses for the Contracts will disclose that Union Security relies on the relief provided by rule 12h-7, with respect to the MVA features on the Contracts.<sup>7</sup>

## Discussion

You note that Rule 3-13 provides that the Commission may, upon the informal written request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the financial statements required by Regulation S-X or the filing in substitution therefor of appropriate statements of comparable character. You assert that, for the Form S-1 Registration Statements, SAP financial statements audited by an independent auditor<sup>8</sup> are consistent with investor protection and are appropriate financial statements of comparable character to GAAP financial statements.

In support of this claim, you assert that investors in the MVA options will likely be most interested in information relevant to assessing Union Security's solvency.<sup>9</sup> You assert that SAP financial statements would provide investors in the MVA options with sufficient information to assess Union Security's solvency and its ability to satisfy its contractual obligations.<sup>10</sup>

In this regard, you claim that SAP financial statements contain detailed information about an insurance company's assets and liabilities, as well as its regulatory capital and surplus, which serve as financial cushions for paying contract owner claims. In addition, you claim that SAP financial statements enable state regulators to determine Union Security's ability to meet

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<sup>6</sup> Rule 12h-7(d) requires that those securities must not be listed, traded, or quoted on an exchange, alternative trading system, inter-dealer quotation system, electronic communications network, or any other similar system, network, or publication for trading or quoting. Rule 12h-7(e) requires that an issuer take steps reasonably designed to ensure that a trading market for the securities does not develop.

<sup>7</sup> Rule 12h-7(f) provides that the prospectus for the securities must contain a statement indicating that the issuer is relying on the exemption provided by the rule.

<sup>8</sup> You state that the independent auditor engaged to audit the SAP financial statements will be registered with and subject to inspection by the Public Company Accounting Oversight Board, and will satisfy the independence standards of Article 2 of Regulation S-X.

<sup>9</sup> You note the Commission recognized, in proposing variable annuity registration forms, that investors may not want or need disclosure about the financial performance of the insurance company, but instead may be interested only in the insurer's solvency. *Registration Form for Insurance Company Separate Accounts that Offer Variable Annuity Contracts*, Securities Act Release No. 6502 and Investment Company Act Release No. 13689 (Dec. 22, 1983).

<sup>10</sup> You also note that, while GAAP financial statements assist investors in understanding Union Security's going concern value, investors in the Contracts do not need information regarding Union Security's going concern value since there is no secondary market in the Contracts.

obligations to contract owners based on the availability of readily marketable assets when obligations are due.

Based on the facts and representations set forth in your letter as summarized above, as well as the conditions outlined above, and without necessarily agreeing with all of your analysis, your request for permission under Rule 3-13 for Union Security to file SAP financial statements, audited by an independent auditor, in lieu of GAAP financial statements in the Form S-1 Registration Statements for the MVAs, as it relates to the accounting basis of those financial statements only and as described above, is granted.<sup>11</sup>

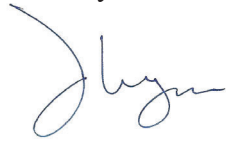
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<sup>11</sup> Our analysis underlying this assurance has been developed in consultation with the staff of the Commission's Office of the Chief Accountant.

This permission is provided for the MVAs described in your letter based on the facts disclosed therein, including that the MVAs seeking to rely on the permission are non-variable annuity contracts classified as market-value adjusted annuities, contingent deferred annuities, and/or indexed annuities. While the Company has stated that there are no plans to offer new registered products and that it is not requesting that this relief letter apply to future products, we note that as to any Contract registered or materially amended in the future, this permission is subject to the Commission staff's assessment of the Contract's registration statement for consistency with the facts described in your letter and the intended product types. In this regard, you have stated that Union Security will notify the staff, in a letter accompanying the filing of any new registration statement for a Contract or any post-effective amendment to an existing registration statement that reflects a material change to a Contract, of its intent to rely on the permission granted in this letter.

If you have any questions regarding this letter, please call the Chief Accountant's Office of the Division of Investment Management at (202) 551-6918.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jenson Wayne". The signature is fluid and cursive, with a large initial "J" and "W".

Jenson Wayne  
Chief Accountant  
Division of Investment Management

For the Commission, by the Division of Investment Management, pursuant to delegated authority.



mwe.com

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December 30, 2021

Mr. Jenson Wayne, Chief Accountant  
Division of Investment Management  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, D.C. 20549

**Re: Union Security Insurance Company  
Request Pursuant to Rule 3-13 of Regulation S-X**

Dear Mr. Wayne:

On behalf of Union Security Insurance Company (“Union Security” or the “Company”), we respectfully request that, pursuant to Rule 3-13 of Regulation S-X (“Rule 3-13”), the Division of Investment Management permit Union Security to file audited financial statements in accordance with statutory accounting principles (“SAP”) prescribed or permitted by its domiciliary state regulator in place of financial statements prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) in satisfaction of the requirements of Items 11(e) and 11(g) and Item 16(b) of SEC Form S-1 in connection with the registration of the MVAs as defined herein. At issue is financial information contained in filings related to the following different groups of variable annuity contracts: the EmPower Variable Annuity contracts, the TD Waterhouse Variable Annuity contracts, the Triple Crown Variable Annuity contracts, the Masters Variable Annuity contracts and the Masters+ Variable Annuity contracts (collectively the “Contracts”). These Contracts have a general account investment option with a market value adjustment (“MVA”); thus, S-1 registration statements were previously filed to register the MVA feature in these Contracts (“Form S-1 Registration Statement”). The information contained in these Form S-1 Registration Statements is updated annually with Post-Effective Amendments. As part of the annual update to the Contracts’ registration information, Union Security provides updated financial statements.

As discussed further below, the Contracts, including the MVAs, are insurance products subject to state regulation, and the Company believes that SAP financial statements are of a comparable character to GAAP financial statements and will provide investors in the Contracts in the MVA options with sufficient information to assess the Company’s ability to meet its obligations under the relevant Contract. As such, filing SAP financial statements in place of GAAP financial statements in the Form S-1 Registration Statement would be consistent with investor protection.

## **I. Background**

### **A. Union Security**

Union Security is a Kansas stock life insurer founded in 1910, and is qualified to sell life, health and annuity insurance in the District of Columbia and in all U.S. states except New York. Union Security was a wholly owned subsidiary of Assurant, Inc. (“Assurant”). On March 8, 2021, CMFG Life Insurance Company (“CMFG Life”) entered into a definitive agreement to acquire certain subsidiaries, real estate and related assets of Assurant, including the purchase of 100% of the outstanding stock of Union Security. The acquisition closed in August of 2021. As a result of the acquisition, Union Security is owned by Preeed Holdings, LLC, which is a wholly owned subsidiary of CMFG Life. CMFG Life is owned by TruStage Financial Group, Inc., which is owned by the ultimate parent, CUNA Mutual Holding Company, a mutual insurance holding company domiciled in Iowa.

As a Kansas-domiciled insurance company, Union Security is subject to supervision by the Kansas Insurance Department (“KID”) and must prepare SAP financial statements pursuant to Kansas insurance law. These SAP financials are audited by an independent auditor (*i.e.*, an auditor that satisfies the standards for independence set out in Rule 2-01(b) of Regulation S-X and is registered with and is subject to inspection by Public Company Accounting Oversight Board) and filed with the Company’s domiciliary state insurance regulator (KID) and the National Association of Insurance Commissioners (“NAIC”).

The SAP financial statements are periodically examined by the state regulators as part of a comprehensive regulatory program that focuses on the Company’s solvency, with the goal of ensuring that the Company can fulfill its contractual obligations to contractowners. The ultimate objective of state solvency regulation is to ensure that the insurance company can pay contractowner liabilities when they come due and that the insurance company maintains capital and surplus at all times in such forms as required by state law to provide a margin of safety. With the objective of solvency regulation and contractowner protection, statutory accounting principles focus on the insurance company’s balance sheet and solvency and emphasize the insurance company’s liquidity.

On April 1, 2001, Union Security entered into an agreement with Talcott Resolution Life and Annuity Insurance Company to co-insure 100% of the obligations of Union Security under the Contracts and to provide administration for the Contracts. To provide updated financial information related to the Contracts, the Company has prepared and filed GAAP financial statements each year since.

### **B. Contracts**

The Contracts are individual or group tax-deferred variable annuity contracts. They are designed for retirement planning purposes and were available for purchase by an individual, group or trust.

The Contracts do not represent an equity interest in Union Security.

The Contracts and their features are no longer available for new sales. There are no plans for Union Security to offer new registered products; consequently, the Company will not need to seek Rule 3-13 relief for future product filings.

The Contracts include various plans in which the policyholders' deposits can be allocated to unitized separate accounts (approximately three fourths of the total as of December 31, 2020) as well as fixed interest and non-unitized separate accounts. All Contracts have a fixed account option, with the majority including a feature whereby the Company credits interest monthly (subject to a guaranteed minimum), and there is no MVA if the contract owner withdraws money from that fund. Another subset of the Contracts has an MVA fixed account, whereby an interest rate is guaranteed for a specific period of time, which can range from one to ten years. If the customer withdraws money from the MVA before the end of that specified period (via surrender or funds transfer to a unitized separate account), there is an MVA dependent on how market interest rates have moved. At the end of the specified period, the customer may renew for another period. The credited rate for MVA fixed accounts is also subject to a guaranteed minimum, which is 4% for most contracts and 3% for others.

### **C. Preparation of GAAP financial information**

While Union Security must prepare full entity level GAAP financial statements only in connection with issuing the Contracts, it provides limited GAAP financial information to certain parent companies for use in their consolidated financial statements. If Union Security no longer prepared full entity level GAAP financial statements, the unaudited GAAP financial information that Union Security would be required to prepare for use by its parent companies would consist only of the Company's unaudited balance sheet and income statement accounts included in the parent companies' consolidated general ledger. The GAAP financial information Union Security prepares for consolidation by its indirect parent companies does not constitute a GAAP reporting package or partial GAAP financial statements. Preparing the additional financial information required for the stand-alone GAAP financial statements imposes significant costs and administrative burdens on the Company.

## **II. Request for Relief Pursuant to Rule 3-13**

Rule 3-13 provides that the Securities and Exchange Commission ("Commission") "may, upon the informal written request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the financial statements herein required or the filing in substitution therefor of appropriate statements of comparable character."

Union Security requests relief pursuant to Rule 3-13 of Regulatory S-X to file SAP financial statements in place of GAAP financial statements in the Form S-1 Registration Statements for the MVA options included in the Contracts.

For the reasons discussed more fully below, Union Security believes the use of audited SAP financial statements in lieu of GAAP financial statements in connection with the Form S-1 Registration Statements, and any amendments thereto, is consistent with the protection of investors; further, SAP financial statements are an adequate presentation of the financial condition of Union Security and are of



comparable character to GAAP financial statements. This position is supported by precedent policy of the Commission.

**A. SAP Financial Statements Are an Adequate Presentation of the Financial Condition of Union Security and are Appropriate Statements of Comparable Character to GAAP Financial Statements**

SAP financial statements that have been audited by an independent auditor are consistent with the protection of investors, and they are appropriate financial statements of comparable character to GAAP financial statements. The objective of SAP is as follows:

Statutory Accounting Principles are designed to assist state insurance departments in the regulation of the solvency of insurance companies. The ultimate objective of solvency regulation is to ensure that policyholder, contract holder and other legal obligations are met when they come due and that companies maintain capital and surplus at all times and in such forms as required by statute to provide a margin of safety. With the objective of solvency regulation, SAP focuses on the balance sheet, rather than the income statement, and emphasizes insurers' liquidity.<sup>1</sup>

As part of required regulatory oversight, Union Security files annual SAP financial statements with the KID and the NAIC. Insurance regulators review SAP financial statements as part of a comprehensive regulatory program that focuses on insurance companies' financial solvency, with the goal of ensuring that they can fulfill their contractual obligations to policyholders. Prescribed SAP includes the Accounting Practices and Procedures Manual of the NAIC as well as state laws, regulations and administrative rules. SAP financial statements include statutory statements of admitted assets, liabilities and capital and surplus, and the related statutory statements of operations and changes in capital and surplus and of cash flows. The ultimate objective of state solvency regulation is to ensure that Union Security has appropriate capital and surplus and can pay policyholders' liabilities. As such, SAP focuses on the insurance company's balance sheet and emphasizes liquidity.

In addition to the audited SAP financial statements, pursuant to NAIC and KID requirements, Union Security also prepares an unaudited Annual Statement, which includes the basic SAP financial statements, as well as extensive schedules related to the entity's insurance and investment operations. Further, Union Security prepares a statutory basis management discussion and analysis ("MD&A") report. The MD&A explains the results of operations and discloses risk factors, prospective information, liquidity, and off-balance sheet information. The information in the Annual Statement and MD&A is comparable to what is required by Schedules I, III, IV and V.

Investors in the MVA options are likely most interested in financial information relevant to assessing Union Security's solvency, which is the focus of SAP financial statements. As indicated above, SAP financial statements enable state regulators to determine an insurance company's ability to meet its

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<sup>1</sup> See NAIC Statutory Accounting Principles (SAP) (available at [https://content.naic.org/cipr\\_topics/topic\\_statutory\\_accounting\\_principles.htm](https://content.naic.org/cipr_topics/topic_statutory_accounting_principles.htm)).

obligations to contract owners based on the availability of readily marketable assets when obligations are due. Statutory accounting principles are designed specifically to provide this type of information to state regulators. SAP financial statements contain detailed information about the Company's assets and liabilities as well as its regulatory capital and surplus, which serve as financial cushions for paying contract owner claims. Furthermore, SAP financial statements enable state regulators to determine the Company's ability to meet contract owner obligations, based on the availability of readily marketable assets when obligations are due. Consequently, SAP financial statements would provide investors with the MVA options with sufficient information to assess the solvency of Union Security and its ability to satisfy its contractual obligations. GAAP financial statements, on the other hand, assist investors in understanding the Company's going concern value. Due to the absence of any secondary market in the MVAs, Contract owners do not need information regarding the Company's going concern value. Therefore, GAAP financial statements would not provide additional informative value to investors that would justify the significant costs and administrative burdens of preparing and auditing an additional set of financial statements solely to include in the Form S-1 Registration Statements.

**B. The Use of SAP Financial Statements is Supported by Precedent Policy of the Commission**

The Commission has already deemed SAP financial statements to be consistent with investor protection. The Commission permits the use of SAP financial statements in lieu of GAAP financial statements in Form N-3 and N-4 registration statements for variable annuity contracts, and in Form N-6 registration statements for variable life insurance policies, so long as the issuer would not otherwise have to prepare GAAP financial statements. When it proposed Forms N-3 and N-4, along with instructions permitting the use of SAP financial statements, the Commission recognized that the guarantees associated with annuity payments, which are backed by the insurance company's general account, depend on the insurer's solvency, and that investors may not want or need disclosure about the insurer's financial performance but instead may be interested only in the insurance company's solvency.<sup>2</sup> The permitted use of SAP financials for Forms N-3, N-4 and N-6, supports the conclusion that the use of SAP financials in similar contexts, such as in conjunction with Rule 3-13 relief, is also consistent with the protection of investors.

Relief afforded to insurance companies in Rule 12h-7 of the Securities Act of 1934 ("1934 Act") similarly supports this position. Rule 12h-7 provides relief from the requirement to file periodic reports under the 1934 Act.<sup>3</sup>

Union Security relies on and will continue to comply with Rule 12h-7 for relief from the requirements to file reports such as Forms 10-K, 10-Q or 8-K. As a required condition for Rule 12h-7 relief, Union Security is subject to the supervision of the insurance commissioner of the KID. As indicated above, Union Security files an Annual Statement regarding its financial condition, and its financial condition

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<sup>2</sup> See Registration form for Insurance Company Separate Accounts that Offer Variable Annuity Contracts (Proposing Release) Rel. Nos. 33-6502 and IC-13689 (December 22, 1983) at 4.

<sup>3</sup> See 17 CFR 240.12h-7 (exempting insurance companies from filing 1934 Act reports with respect to certain specified types of securities that are subject to state insurance regulation and are registered under the 1933 Act, provided that certain conditions are met).

is periodically examined by the KID pursuant to Kansas insurance laws. In addition, as required by a condition for the relief provided by Rule 12h-7, the MVAs are subject to regulation under Kansas insurance laws. These MVAs do not constitute equity interests in Union Security, and are not and will not be listed, traded or quoted on an exchange, alternative trading system, inter-dealer quotation system, electronic communications network, or any other similar system, network or publication for trading or quoting. Union Security will take steps reasonably designed to ensure that a trading market for the MVAs does not develop. Prospectuses for the Contracts will disclose that Union Security relies on the relief provided by Rule 12h-7, with respect to the MVA features on the Contracts.

In permitting such relief, the Commission recognized the appropriateness of eliminating duplicative and burdensome regulation as follows:

State insurance regulation, like Exchange Act reporting, relates to an entity's financial condition. We are of the view that, in appropriate circumstances, it may be unnecessary for both to apply in the same situation, which may result in duplicative regulation that is burdensome. Through Exchange Act reporting, issuers periodically disclose their financial condition, which enables investors and the markets to independently evaluate an issuer's income, assets, and balance sheet. State insurance regulation takes a different approach to the issue of financial condition, instead relying on state insurance regulators to supervise insurers' financial condition, with the goal that insurance companies be financially able to meet their contractual obligations. We believe that it is consistent with our federal system of regulation, which has allocated the responsibility for oversight of insurers' solvency to state insurance regulators, to exempt insurers from Exchange Act reporting with respect to state-regulated insurance contracts. Commenters asserted that, in light of the protections available under state insurance regulation, periodic reporting under the Exchange Act by state-regulated insurers does not enhance investor protection with respect to the securities covered under the rule.<sup>4</sup>

Accordingly, Rule 12h-7 relief reflects a determination by the Commission that certain generally applicable disclosure requirements imposed by federal securities laws need not apply to registered insurance products, which are subject to comprehensive state regulation and extensive consumer protection contained in state insurance laws.

### **C. Affiliated Entities File SAP Financial Statements With the Commission**

MEMBERS Life Insurance Company ("MEMBERS Life"), a wholly-owned subsidiary of CMFG Life, is required to file financial statements with the Commission for registered annuity products it issues.

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<sup>4</sup> Indexed Annuities and Certain Other Insurance Contracts, Securities Act Release No. 8996 (Jan. 8, 2009) at 70.

MEMBERS Life requested and received permission to use SAP financial statements in Commission filings related to these products, pursuant to Rule 3-13.

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For the foregoing reasons, Union Security respectfully requests that, pursuant to the Commission's authority in Rule 3-13, the Company be permitted to file SAP financial statements in lieu of GAAP financial statements in the Form S-1 Registration Statements, and any amendments thereto, for the MVA feature in the Contracts. As noted above, there are no plans to offer new registered products, and the Company is not requesting that this relief letter apply to future products. However, should you provide this relief, Union Security agrees to notify the Staff in a letter, accompanying the filing of any new registration statement for a Contract or any post-effective amendment to an existing registration statement that reflects a material change to a Contract, of its intent to rely on the permission granted in response to this letter. In addition, if the Company receives the permission requested in this letter, the Union Security financial statements filed for the closed block of Contracts registered on Form N-4 will be prepared on a SAP basis as permitted by that form; at the current time, the Company cannot rely on the exception because the Company is required to prepare the GAAP financial statements in connection with the registration of the MVAs on Form S-1.

Thank you for your attention to this matter. Please contact me at (212) 547-5885 if you need additional information or have any questions concerning this request.

Sincerely,



Robert Cohen

cc: Alex Bradford, U.S. Securities and Exchange Commission  
Jennifer Kraus-Florin, Associate General Counsel, CUNA Mutual Group  
Michael C. Pawluk – U.S. Securities and Exchange Commission