



**Via E-Mail**

April 4, 2005

Jonathan G. Katz, Secretary  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, DC 20549-0609

Re: File Number S7-06-04

Dear Mr. Katz:

This letter is submitted in response to the proposal set forth by the Securities and Exchange Commission (the "Commission") in SEC Release Nos. 33-8544 and 34-51274 (March 4, 2005) (the "Release"). The Release discusses possible new rules (the "Proposal") under the Securities Exchange Act of 1934 to require that broker-dealers provide additional information at both the point of sale and in transaction confirmations regarding certain costs and conflicts of interest in transactions involving mutual funds, unit investment trust interests (including variable insurance products) and municipal fund securities used for education savings).

This letter is respectfully submitted by Massachusetts Mutual Life Insurance Company ("MassMutual") a member of the MassMutual Financial Group, a global diversified financial services organization. MassMutual is an issuer of variable annuity and variable life insurance contracts, and distributes those products through nationwide network of affiliated and non-affiliated broker-dealers and insurance agencies.

#### OVERVIEW OF COMMENTS

We welcome the opportunity to comment, particularly with respect to how cost disclosure might best be achieved for variable life insurance and variable annuity products. We agree with the Commission that variable life insurance products are unique and additional disclosure, to the extent necessary, might best be achieved through illustrations modifications. We remain convinced that many of the proposed requirements will be expensive to implement and lead to little, if any, additional understanding on the part of the purchasers of variable life and variable

Jonathan G. Katz

April 4, 2005

Page 2

annuity products. Today, extensive disclosure is provided to variable life insurance and variable annuity purchasers and many of the disclosures set forth in the Release appear to be duplicative of those contained in existing point of sale documentation and transaction confirmations. We are not convinced that the proposed changes will enhance customer understanding.

### **Variable Life Insurance -Point of Sale Disclosure**

MassMutual provides personalized illustrations to all customers in connection with the sale of individual variable life insurance policies. Our illustration systems are robust and we have expended considerable resources to develop, maintain and modify them over time. The illustrations format which is based on the NAIC Life Insurance Illustrations Model Regulation identifies the proposed purchaser, the insured, the type of policy, face amount, death benefit options, planned premium, frequency of payment of planned premium payments and any riders that are being considered as part of the purchase. A narrative summary discusses any death benefit guarantees, the maintenance of the guarantees, death benefit options, increases of insurance coverage, and also provides definitions of the various columns that show hypothetical performance of the policy in the pages that follow. An average illustration is approximately twenty pages long.

MassMutual believes that the decision by an individual consumer to purchase a life insurance product should be based primarily on a need for death benefits. Accordingly, we believe a variable life insurance sales presentation must emphasize the life insurance provisions and should not be dominated by the investment features of the policy. Essentially, all information should reflect an appropriate balance between insurance and investment. We, also, believe that personalized sales illustrations provide the best available tool for explaining the provisions and costs of these complex insurance products. Therefore, we recommend that any additional point of sale disclosure be provided through a personalized sales illustration.

Today, a purchaser of a MassMutual variable life insurance policy receives hundreds of pages of information. This includes a policy prospectus, prospectuses for the underlying funds, an illustration and the policy itself. Personalized disclosure in the form of an illustration is based on the actual premium payment intended to be paid and the face amount to be purchased. More generic information about costs and charges are found at the beginning of the policy prospectus. New forms with standardized disclosure on hypothetical values would create confusion and misimpressions.

We see no additional value from standardized disclosure setting forth the costs that would be incurred were the purchaser to pay \$1,000, \$5,000 or \$50,000 instead of the premium the

Jonathan G. Katz

April 4, 2005

Page 3

purchaser intended to pay. Is the purchaser to assume (probably incorrectly) that the face amount stays the same and the premium payment changes? Implicit in the proposed \$50,000 standardized disclosure is that this payment is permissible. In fact, the policy may not be able to accept such a premium payment because of either underwriting issues involving increased amounts at risk, or because of adverse tax consequences to the purchaser if this magnitude of payment were made. Federal tax laws limit the total amount and timing of the premium that may be paid for a given death benefit. Current illustrations provide a net surrender value for every year illustrated, usually to age 100 (so that 60 years are shown for a 40 year old insured). These are not estimates for standardized dollar amounts, but are specific to the planned premium. Standardized hypothetical estimates are less specific and less valuable than personalized hypothetical performance surrender values.

While MassMutual agrees that a requirement that all fees and charges be shown as a dollar amount is appropriate, we disagree with a requirement that all fees and charges be expressed as a percentage of premium. Not all fees and charges are calculated as a percentage of premium. For example, the exercise of certain riders or options may result in a one-time charge imposed at the time of the election. Also, cost of insurance charges are calculated based on the death benefit and the net amount at risk. These costs would be reduced if additional premium were paid, but paying additional premium to reduce costs as a percentage of premium may not, as noted previously, be advantageous or permitted to the consumer. Ironically, more premium could increase the death benefit by triggering "minimum death benefit" provisions designed to comply with federal tax law requirements, leading to death benefit increases and to increased charges. To provide information based on percentage of premium implies that there is a meaningful relationship between the two. We think this would be misleading.

The Commission asked whether insurance charges and other charges should be specifically broken out. We think this should be left to the illustration capabilities of the insurer. We do not believe that the breakdown would be particularly helpful to consumers and could prove to be a distraction. With respect to the purchase of individual variable life insurance products, a consumer is unlikely to be able to shop various price components and make a purchase decision based solely on the difference of, for example, cost of insurance charges. Rather, a consumer would focus on total overall cost. However, as long as the costs are shown in the illustration in a logical manner, the consumer may determine the aggregate costs. The cost of changing a system to provide a breakout or an aggregation if the system is not programmed to do so would be expensive and of dubious value.

### **Variable Life Insurance - Transaction Confirmations**

MassMutual provides transaction confirmations at the time premium payments are received and in quarterly statements. Each confirmation documents the premium received, the dollar amount of the premium expense charge, and the net amount of the premium applied to the policy. There is also disclosure that certain charges will be deducted from the account value if the customer chooses to take a withdrawal or full surrender. An account value summary sets out the allocation of net premium applied to the various separate account investment options, the number of units, beginning values, unit values, etc.

Quarterly statements provide general policy information and an activity summary, showing premium payments from policy anniversary, less expense charges to date, less monthly charges, withdrawals, withdrawal fees, surrenders, surrender fees, plus interest credited to the general account portion of the policy and investment experience on the separate account investment options. The statement also sets out a summary of policy values, activity summary by investment option, a pie chart showing current total asset positions, and a summary of current net premium allocation for new premium.

The year-end quarterly statement contains additional information focusing on any general account guarantees, interest rates for any general account portion, loan rates, death benefit option selected, annual activity summary with charges broken down into categories and a summary of the investment activity by investment option. Finally, there is a projection of policy values disclosing how long the policy will remain in force if no further premiums are paid and if planned premiums continue to be paid.

Taken together, these reports provide a great deal of detail on account activity and insurance in force—more information than contained in the proposed confirmation statements for variable annuities. To require that these figures be expressed as a percentage of premium provides no additional useful information.

We recommend to purchasers that they review their financial plans periodically, but not monthly or quarterly. To require surrender information for each premium payment seems to encourage surrender or churning at every turn. After the first year of a policy's existence, purchasers may request an inforce illustration. This inforce document provides the same detail as the initial illustrations and can be modified to reflect changes in planned premium going forward or a change in any of the assumptions. It shows net surrender values in dollar amounts based on the latest assumptions.

We recommend that any new requirements for disclosure adopted by the Commission focus on content rather than format. For example, the Commission's proposal does not allow for addresses on the documents. The benefit of this restriction is not clear, but its burdens are. MassMutual uses envelopes with windows to reveal the name and address of the owners for mailing purposes. The names and addresses appear on the left side of MassMutual communications. The proposed rule would require reconfiguration of many practices and procedures for mailing. Another example is the Commission's proposal to use the right side of the page for premium information and no policy information appears to be included. Our confirmations currently provide premium and sales charge information below the name and policy information to the right. As described above, each document contains policy specific information which we believe is important to the consumer.

### **Variable Annuities – Point of Sale Disclosure**

MassMutual does not utilize illustrations in connection with the sale of its variable annuity products and recognizes that the addition of a separate point of sale disclosure document may be helpful to customers. The production of generic purchase information for set amounts of premium (\$1,000, \$5,000, \$50,000) will involve expense and appears to be duplicative of information contained in the fee table provided in the variable annuity prospectus. A rule requiring that purchasers be provided personalized cost information would be extremely expensive and difficult to deliver. It is not clear how this information would be generated and by whom. Who would bear the burden of a failure to deliver the information or of an error?

In general, we think that a great deal of detail regarding fees and charges does not provide an easy route to the net cost to the customer. Given that the timing of charges will be different, i.e. daily, monthly, quarterly, and that some charges are flat fees, a perfect aggregation cannot be achieved. Therefore, we recommend that charges be aggregated into a small number of appropriate categories. In addition, we think different forms should be developed for annuities with front-end load and those with surrender charges. It is unlikely that a product would reflect both and distinct forms would reduce the amount of information customers must sort through.

In addition to disclosures with respect to free looks, disclosures should be provided regarding the 10% waiver of surrender charges that is commonly offered by variable annuity products and under some riders, for example, terminal illness or nursing home riders.

The requirement of check boxes for conflicts on the proposed disclosure forms would be difficult to administer. Because there are different arrangements between issuing companies and underlying funds, multiple versions of the check boxes would be needed to accurately reflect different structures. This would be expensive and likely to result in misinformation. Revenue sharing to an issuing company from funds underlying the variable products should be treated in the same manner as revenue sharing payments to distributors of the product. This

Jonathan G. Katz  
April 4, 2005  
Page 6

information should be provided to customers through a reference to a website on which such information may be found.

Finally, MassMutual believes that point of sale disclosure requirements should not apply to subsequent payments to annuities.

### **Variable Annuities – Confirmations**

As with life insurance, we think the purchase of an annuity should be made after thoughtful consideration. Transaction confirmations should remain brief and easy to understand. Layering additional disclosure onto what was intended to be an acknowledgement of a simple financial activity will reduce, not enhance its effectiveness. The repetition of point of sale disclosure regarding revenue sharing and surrender charge amounts should not be revisited after every remittance. The repetition of all charges and fees after the payment is made seems to encourage dissatisfaction and replacements. Surrender charge information will appear in point of sale materials and the prospectuses, which customers receive regularly. We recommend that the confirmation refer customers to those previously provided documents for additional information about fees and charges or to companies customer service departments.

### **Summary**

MassMutual is supportive of certain additional disclosure for individual variable life insurance and variable annuity products that may be helpful to consumers, but urges that requirements be provided through guidelines and recommendations rather than through standardized and formatted documents. In an effort to enhance disclosure and minimize expense, we think that each company should be permitted to work with its existing documents and systems to provide any required additional information to consumers.

We would be pleased to discuss our views with representatives from the Commission at its convenience.

Sincerely,

Emily J. Poriss  
Second Vice President & Associate General Counsel  
Massachusetts Mutual Life Insurance Company