September 19, 2005

Jonathan G. Katz
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-9303

RE: File No. SR-NASD-2004-183

Dear Mr. Katz:

On July 15, 2005, the Securities and Exchange Commission (the "Commission") published a notice and solicited comments on proposed NASD Rule 2821, "Members' Responsibilities Regarding Deferred Variable Annuities," filed with the Commission on December 14, 2004, as amended by Amendment No. 1 filed on July 8, 2005.[1] The proposed rule would create recommendation requirements (including a suitability obligation), principal review and approval requirements, and supervisory and training requirements tailored specifically to transactions in deferred variable annuities.

This letter of comment on the proposed rule is respectfully submitted by the National Association for Variable Annuities ("NAVA").[2]

*Summary of Rule Proposal*

Applicability of rule. The proposal states that the rule applies to the purchase or exchange of a deferred variable annuity and the subaccount allocations. Exceptions are provided for reallocations made after the initial purchase or exchange, and transactions made in connection with certain enumerated tax-qualified, employer-sponsored retirement or benefit plans.

[1] Release No. 34-52046 (July 15, 2005) (the "Release")
[2] NAVA is a not-for-profit organization dedicated to the growth and understanding of annuity and variable life insurance products. NAVA represents all segments of the annuity and variable life industry with over 350 member organizations, including insurance companies, banks, investment management firms, distribution firms, and industry service providers.

Recommendation requirements. When recommending a deferred variable annuity, registered representatives would have to have a reasonable basis to believe that: (1) the customer has been informed of the material features of the deferred variable annuity; (2) the customer has a long-term investment objective; (3) the customer has a need for the features of a deferred variable annuity as compared with other investment vehicles; and (4) the deferred variable annuity and the underlying subaccounts are suitable for the particular customer based on required customer information . These determinations would have to be documented and signed.

Principal review and approval. Prior to transmitting a customer's application to the issuing insurance company, a registered principal would be required to review and approve the transaction. The proposed rule sets out a number of specific factors that must be considered in reviewing the transaction. If the transaction had been recommended by a representative, the principal would have to review, approve and sign the suitability determination document.

Supervisory procedures. Members would be required to establish and maintain written supervisory procedures reasonably designed to achieve compliance with the standards in the rule and to ensure that transactions are appropriately screened for and reviewed.

Training. Training policies or programs would be required to ensure that relevant personnel comply with the requirements of the rule and understand the material features of deferred variable annuities, including liquidity issues, sales charges, fees, and market risks.

*NAVA's Comments*

NAVA and its members support the efforts of the NASD, Commission and other regulators to ensure that all sales of deferred variable annuities comply with all applicable requirements, including suitability and full disclosure, and are supported by proper sales supervision and training. The annuity industry takes the issue of unsuitable sales practices very seriously and NAVA is committed to working with regulators to ensure that variable annuities are sold appropriately in all instances.

As noted above, among other things, proposed Rule 2821 would mandate that registered representatives selling variable annuities receive adequate training regarding the material features of the product and that purchases or exchanges be properly reviewed and supervised. We believe that these requirements are appropriate. NAVA's members are committed to high standards of training for their sales personnel, and we agree that a better trained and educated sales force will in turn lead to better informed investment decisions by consumers.

However, we are concerned that several provisions of the proposed rule will impose significant and unnecessary burdens on the sale of an important product that is being appropriately used by millions of Americans to save for and live in retirement. A variable annuity is generally used as a long-term retirement investment vehicle that offers insurance benefits that are not available with any other financial product – beneficiary protection in the form of a guaranteed minimum death benefit, living benefits that offer additional principal protection to contract owners, and the ability to receive a lifetime stream of income.

We believe that it is inappropriate to single out one product, deferred variable annuities, and impose stringent requirements that could place variable annuities at a decided competitive disadvantage and inhibit their sale. We fear that the rule may cause registered representatives to refrain from making clearly suitable recommendations regarding deferred variable annuities, and their principals from approving them, because of new rules that in some instances are overly broad and unclear. The fear of disciplinary actions from the enforcement of these overly broad and unclear rules could have a powerful chilling effect on sales. They may well make it more difficult to sell a variable annuity than other investments that are also relatively complicated and carry more risk, such as limited partnerships.

In our comment letter, we suggest a number of changes to the proposed rule to eliminate unnecessary or inappropriate burdens on the sale of deferred variable annuities while supporting other provisions that are reasonable and clearly drafted and will provide meaningful benefits and protection to investors. Because of the potential impact the proposed rule could have on the variable annuity industry, we would also welcome an opportunity to meet with appropriate individuals at the Commission to explain our concerns in more detail.

## I. Application

Section (a)(1) of Proposed Rule 2821 states that the rule applies to the purchase or exchange of a deferred variable annuity and the subaccount allocations but does not apply to reallocations of subaccounts made after the initial purchase or exchange. We are pleased to see that the NASD modified its original proposal to specifically except subsequent reallocations, and assume that the rule would similarly not apply to subsequent premiums invested in a deferred variable annuity contract. Variable annuity contracts typically allow owners to make additional investments in the portfolios offered in the contract, either on a regular basis through automatic payroll deductions, or irregularly as personal financial circumstances permit. In many instances, the selling broker-dealer has no knowledge that these investments are being made by the customer which would make applying the rule under such circumstances problematic. When such additional premiums are paid, without any recommendation or solicitation from the broker-dealer, we see no reason why the various requirements of proposed Rule 2821 should apply. As with reallocations, other NASD rules, including Rule 2310, would apply where a recommendation is made regarding the specific portfolios into which the subsequent premiums should be invested.

To eliminate any uncertainty, we request that the rule be clarified to make it explicit that it also does not apply to premiums paid into a deferred variable annuity contract after its initial purchase.

The NASD further modified the rule to exclude deferred variable annuity transactions made in connection with certain tax-qualified, employer-sponsored retirement or benefit plans. We agree with this modification, but believe that the exclusion should also extend to ineligible deferred compensation plans under Internal Revenue Code Section 457(f). In the NASD's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change filed with the SEC on December 14, 2004, the NASD explained that it had created an exception for tax-qualified,

employer-sponsored plans because the protection provided by the rule was not necessary in the case of sales to a sophisticated plan sponsor, trustee or custodian.

Section 457(f) plans that allocate plan funds to annuity contracts are typically set up with an employer-owned annuity contract in which the individual employees have few, if any, rights. Since the sound reasoning applied to exclude tax-qualified, employer-sponsored retirement or benefit plans applies equally well to Section 457(f) plans, we request clarification that the exclusion from the applicability of proposed Rule 2821 is intended to encompass 457(f) plans, as well.

## II. Recommendation Requirements

Section (b)(1) establishes specific recommendation requirements or standards that must be met in order for a member or registered representative to recommend the purchase or exchange of a deferred variable annuity. We have serious concerns regarding the specific standards set out in sections (b)(1)(A),(B) and (C) and recommend that they be deleted.

*Section (b)(1)(A) – Material Features*

Subsection (A) of proposed Rule 2821 would require the registered representative to highlight for the customer the material features of the deferred variable annuity.[3] In its filing of the rule with the SEC in December 2004, the NASD eliminated the requirement contained in its NTM 04-45 that the customer be provided with a written risk disclosure document that would have contained descriptions of the same features enumerated in fn. 15 of the Release. However, the present requirement will inevitably result in a *de facto* requirement that a written disclosure document be provided and/or be signed by the customer.

First, such documentation will be necessary in order for the broker-dealer to be able to show that the disclosures were made. Second, the proposed rule itself continues to require that the registered representative's determination that the customer has been informed of the material features be documented and signed.

We are concerned about the proliferation of rules and rule proposals that would all require different written disclosures to be provided to purchasers of variable annuities. Current rules already require that prospective purchasers be provided with a current variable annuity prospectus and state required disclosure forms, including exchange forms. Additional written disclosure of fee and charge information and potential conflicts of interest is currently being considered by the SEC in its point-of-sale and confirmation disclosure requirements proposal.[4]

This plethora of documentation at the point-of sale may overwhelm investors, resulting in *less* rather than *better* understanding of the product. Burdening customers with several different

[3] See proposed Rule 2821(b)(1)(A) and fn. 15.
[4] Release Nos. 33-8544 and 34-51274 (February 28, 2005).

disclosure documents at the time they consider the purchase of a deferred variable annuity will be potentially confusing and may actually deter many people from even trying to read any of the information. In the Release, the NASD acknowledged that a number of commenters in response to Notice to Members 04-45 had questioned the need for additional point-of-sale disclosures and stated that the proposed written disclosures were unhelpful and unworkable.[5] The current proposal, while perhaps a slight improvement, is still unhelpful and unworkable.

Most of the material features of deferred variable annuities mentioned in fn. 15 of the Release are already discussed in detail in the contract prospectus. To the extent that a summary document describing the basic features of variable annuity contracts might be beneficial to customers, we believe this can best be accomplished by integrating the disclosures contemplated by the NASD into the prospectus by including the information in summary fashion at the front of the prospectus, rather than provide customers with both a prospectus and a separate document.

Alternatively, NAVA and its members would support the use of a simplified prospectus to deliver these disclosures. As the Commission is aware, NAVA has in the past supported the use of a short variable annuity profile and simplified prospectus that are designed to disclose the essential information about a variable annuity contract that investors need to decide whether to purchase a contract.[6] We note that the NASD has recently endorsed the use of a "Profile Plus" for mutual funds to provide disclosure about their risks, investment strategies, fees, expenses, and other characteristics,[7] and we would welcome an opportunity to work with the SEC staff to develop a similar Variable Annuity Profile Plus.

*Section (b)(1)(B) – Long-Term Investment Objective*

Pursuant to subsection (B), the purchase or exchange of a deferred variable annuity should not be recommended unless "the customer has a long-term investment objective." We believe this absolute is too limiting and will preclude the use of a comprehensive facts and circumstances analysis for particular customer transactions. With no exceptions provided for, this requirement would preclude the recommendation of a deferred variable annuity to clients with a less than long-term investment objective even if all other client profile factors and specific product features would make the annuity an appropriate choice.

While deferred variable annuities are generally considered to be long-term investments, there are products and circumstances under which individuals with a shorter investment horizon may benefit from the purchase of a deferred variable annuity.

For example, some variable annuity contracts have relatively low fees and expenses and short (3-4 years) or no surrender periods. In addition, for those contracts with a surrender period, many variable annuities today offer a variety of features that provide contract owners access to a portion of their investment without the imposition of a surrender charge. For example, most

[5] See Release, at page 10.
[6] See submission of NAVA's Prospectus Simplification Subcommittee to Paul Roye, October 6, 1999.
[7] See NASD comment letter in regard to Investment Company Release No. 26778, dated March 31, 2005.

allow annual withdrawals of 10-15 percent of contract value, free of surrender charges. Contracts also generally waive surrender charges for withdrawals associated with events such as confinement to a nursing home or the contraction of a critical illness.

In addition to variable investment funds, most deferred variable annuities also offer a fixed account or fixed investment option. The fixed account interest rates offered by variable annuities may at times be more attractive than interest rates available through other investment vehicles. A variable annuity may be a suitable investment under these circumstances for customers with less than a long-term investment objective.

A determination of whether a deferred variable annuity is a suitable investment for an individual should not be made on the basis of a single criteria or factor, such as the individual's investment horizon. Rather, in order to perform a proper and thorough analysis, the registered representative must be allowed to take all appropriate factors and circumstances into consideration. Accordingly, we recommend that subsection (b)(1)(B) be deleted.

*Section (b)(1)(C) – Comparative Need*

Subsection (C) requires a determination that the customer "has a need for the features of a deferred variable annuity as compared with other investment vehicles." This standard was not included in the NASD's initial version of the proposed rule issued in Notice to Members 04-45 in June 2004, and thus NASD members and the annuity industry were not afforded the opportunity to provide comment to the NASD. We strongly object to this standard.

First, such a determination is not required by NASD Rule 2310 for recommendations relating to the purchase or exchange of any other security and would place variable annuities at a decided competitive disadvantage.

Second, the proposed rule is silent as to how a need for the features of a deferred variable annuity is to be determined. Fn 20 of the Release provides as examples a customer having a need for tax-deferred growth, a guaranteed future income stream, and/or death benefit protection. This provides little guidance and neither the proposed rule nor the footnote indicates how the need for the product's features is to be judged or documented.

For example, the standard death benefit offered by variable annuities guarantees that if the contractowner dies while saving for retirement, his or her beneficiaries will receive the greater of the amount of money that was invested or the contract's value at the time of death. Whether a death benefit will ultimately be paid will depend on when the contractowner dies and whether the market was "up" or "down" at the time, factors that cannot be known or predicted at the time of purchase. Regardless, the death benefit may have been "needed" by the customer in order to give him or her the confidence to invest in the equity market because beneficiaries would be protected in the event of a market downturn.

We are very concerned that the proposed standard could subject variable annuity sellers to liability or litigation years after the sale. In the example discussed above, if the death benefit

was not exercised, a regulator or plaintiff's attorney may subsequently contend that it was not "needed" and the recommendation to purchase the annuity in the first instance was unsuitable.

The same issues apply as well to other insurance features of deferred variable annuities, such as various forms of living benefits that provide principal protection during the owner's lifetime, and the option to convert the accumulated savings in the contract into income payments that are guaranteed to last for the owner's life, thus providing insurance against the possibility of outliving retirement assets. The need for such insurance cannot be predicted at the time of purchase.

Just as with other forms of insurance, such as life or homeowners, when a person purchases a deferred variable annuity because of its insurance guarantees, what he or she is really buying is protection against economic loss. However, that loss does not have to be realized for the protection to have value. No reasonable person would say that an individual who purchased a homeowner's policy didn't need it simply because his or house never caught fire. Similarly, a variable annuity purchaser's desire for protection against economic loss is a legitimate justification for the purchase. We believe that with this requirement regarding the determination of need for the product's features, the NASD fails to adequately take into consideration the fact that a variable annuity is an insurance product as well as a security.

Third, we are also very troubled by the requirement that the customer's need for the features of the deferred variable annuity be assessed by a comparison with other investment vehicles. The proposed rule is silent as to what such a comparison must entail or what other investment vehicles the deferred variable annuity must be compared with. For example, would the rule require a registered representative to compare the deferred variable annuity to other investment vehicles that he or she is not licensed or registered to sell? If so, how can a meaningful comparison be made with a product that the representative may not be completely familiar with?

NASD staff has indicated that this provision does not require members to perform a side-by-side comparison of the deferred variable annuity with other investment vehicles. However, the Release states that this need analysis "might necessitate a general comparison with other types of investment products."[8] Requiring the registered representative to make a comparison of the deferred variable annuity with other investments is especially troublesome given the NASD's traditional strictness in reviewing such comparisons in variable annuity sales literature under NASD Rule 2210 (d)(2)(B) and IM-2210-2. Would the comparison have to include all of the material differences itemized in 2210 (d)(2)(B), i.e., investment objectives, costs and expenses, liquidity, safety, guarantee or insurance, fluctuation of principal or return, and tax features? The total lack of any guidance on the scope or nature of the required comparison, regardless of whether it is to be general or side-by-side, renders this provision fraught with peril.

Moreover, the requirement for a comparison with other investment products implies a belief on the part of the NASD that variable annuities are interchangeable with other securities, such as mutual funds. This is fundamentally incorrect. As fn 20 recognizes, variable annuities offer

[8] Release at Fn. 20.

unique features that are not available with any other product. Only annuities offer principal protection features like death and living benefits or can provide a guaranteed lifetime stream of income. Because of these unique features, variable annuities are not "comparable" to other investment vehicles and the entire approach is not an appropriate way to analyze a customer's needs and whether a deferred variable annuity is a suitable investment to meet those needs.

We are also very concerned that the proposed recommendation requirement appears to impose a significantly higher standard on recommendations of variable annuities than is imposed on other securities. We believe that such a distinction is fundamentally inappropriate. Rule 2310 requires that a recommendation that a customer purchase a security be suitable for the customer. The comparison requirement in the proposed rule could be interpreted to mean that a deferred variable annuity must not only be suitable product for the customer but must be more suitable or more appropriate than any other investment vehicle.[9] Imposing such an unfair standard on one security is totally unjustified, will create an extremely uneven playing field and have serious anticompetitive consequences.

NAVA believes that subsection (b)(1)(D) sets forth an appropriate suitability standard for recommendations regarding the purchase or exchange of a deferred variable annuity. To comply with (b)(1)(D), the representative cannot recommend the purchase or exchange of a deferred variable annuity unless he or she has a reasonable basis to believe that the deferred variable annuity as a whole and the underlying subaccounts to which premiums are allocated at the time of purchase or exchange are suitable for the particular customer based on the customer information required by the rule. Satisfaction of this standard requires consideration of the factors outlined in subsections (A), (B), and (C) and also allows the registered representative to perform a thorough analysis of all of the relevant facts and circumstances surrounding the particular transaction. NAVA and its members support such a suitability standard tailored specifically for transactions with deferred variable annuities.

Finally, section (b)(1) would also require that the determinations specified in (b)(1)(A), (B), (C), and (D) be documented and signed by the registered representative. This is another step that is not required by NASD Rule 2310 for recommendations relating to any other security, but would be required for deferred variable annuities. Neither the proposed rule nor the Release offers any guidance to member companies as to what this document should look like or how detailed the determinations documented in it should be, making it very difficult for companies to know what they have to do in order to comply. If this documentation is required by any final rulemaking, we request that the Notice to Members announcing approval by the Commission include specific examples of documentation that would satisfy the requirements of this part of the rule.

## III. Customer Information

Section (b)(2) would require registered representatives to obtain extensive information from a customer prior to recommending the purchase or exchange of a deferred variable annuity.

[9] See fn. 20, "if the customer does not need the insurance feature or tax deferral, for instance, then another product might be more appropriate for the customer, depending on his or her objectives and financial situation and needs." (emphasis added).

Initially, we would note that many of the specified items are vague or redundant. For example, what is meant by "financial situation" and how, if at all, does it differ from "liquid net worth?" Also, how far would the registered representative be required to go in inquiring about the customer's "insurance holdings?" Would information have to be obtained regarding health and other forms of insurance, or the insurance holdings of the customer's spouse? If so, the amount of information that must be obtained could be quite large. The proposed rule also fails to provide any instruction as to what the registered representative and member broker-dealer are supposed to do with the information once it has been obtained.

There are also inconsistencies in the customer information required by the proposed rule. Section (b)(2) requires the registered representative to obtain the customer's liquid net worth, while Sections (c)(1)(C) and (d)(3) dealing with principal review and supervisory procedures require consideration of the customer's net worth. These are two different concepts and we think it will be potentially confusing to require the rep to collect one type of information and the reviewing principal to consider another. Liquid net worth is what the NASD has recommended in NTM 99-35 and is, in our opinion, the more relevant comparison in assessing a contemplated transaction.

Moreover, most of the enumerated information is not currently required by Rule 2310 and neither the NASD or the SEC in any of their releases in connection with the proposed rule have provided any rationale as to why the additional customer information is relevant and necessary for a suitability determination for variable annuities but not for mutual funds or other securities.

The enumerated items of information also go well beyond the customer account information requirements of Rule 17a-3(17)(i)(A) of the Securities Exchange Act of 1934 and NASD Rule 3110. As a result, with the adoption of proposed Rule 2821, broker-dealers and their registered representatives would be subject to conflicting customer information collection requirements depending on the nature of the product being recommended. Accordingly, we recommend that section (b)(2) be deleted, and the collection of customer information for deferred variable annuity transactions continue to be governed by NASD Rules 2310 and 3110 and Exchange Act Rule 17a-3(17)(i)(A).

**IV. Principal Review and Approval**

NAVA supports the concept that a registered principal should review and approve a customer's purchase or exchange of a deferred variable annuity. However, for the reasons discussed above in section II of this letter, subsection (c)(1)(A) of the proposed rule requiring the reviewing principal to consider whether the customer appears to have a need for the features of a deferred variable annuity as compared with other investment vehicles should be deleted.

The NASD's initial rule proposal in Notice to Members 04-45 required a registered principal to review and approve deferred variable annuity transactions no later than one business day following the date of execution of the application. This was changed in the rule proposal filed with the SEC on December 14, 2004 to no later than two business days following the date when

a member or person associated with a member transmits the application to the issuing insurance company for processing.

The timing for principal review and approval was modified again by the NASD's Amendment No. 1, filed with the SEC on July 8, 2005. Under the proposed rule as amended, all deferred variable annuity transactions, whether recommended or not, would have to be reviewed and approved by a registered principal prior to transmitting the customer's application to the issuing insurance company for processing.

As with other provisions discussed above, the proposed rule again singles out deferred variable annuities for more stringent treatment without adequate justification. The current supervisory review and approval requirements of Rule 3010 apply universally to all securities products and contain no specific timeframe. The imposition of a product-specific procedure for deferred variable annuities may make them a less competitive and attractive option for a broker to present. In addition, customers who purchase multiple products at the same time will expect them all to be processed at the same time, and this will not be possible if the deferred variable annuity transaction must undergo this additional review and approval process before it can be forwarded on to the insurance company.

The requirement that the principal review occur prior to transmittal to the insurance company fails to take into account the different ways in which variable annuities are sold. While prior review and approval may be acceptable for some business models, it would not work for all sales channels, such as variable annuities that are sold directly to the public. Many variable annuities are sold without any face-to face meeting between the customer and a registered representative. In a direct sales environment, the customer frequently applies for an annuity contract by calling the insurance company or by completing an application on the internet. Receipt of the application is frequently the first time the insurance company even knows that the customer has filled out the application. A very common and even more troubling scenario arises in the context of annuity contracts issued by direct sales companies which are used to fund retirement plans for higher education institutions, research and not for profit institutions. Frequently in those scenarios, the applicant receives an application through their human resource department or during attendance at some type of educational seminar. Again, the insurance company frequently is not aware of the individual's interest until the insurance company actually receives the application. As such, from a practical perspective, principal review prior to transmittal to the insurance company seems unworkable in many instances.

As noted earlier, the principal review would be required in all cases, regardless of whether the transaction was recommended or not. NASD justifies this by stating that it is aware of instances where associated persons have told their firms that deferred variable annuity transactions were not recommended in order to bypass their firms' compliance requirements for recommended or solicited sales. Such a concern clearly is inapplicable in the case of direct variable annuity sales where no associated persons are involved in the transactions. Accordingly, we recommend that such purchases made directly by the customer without the involvement of a broker-dealer or its registered representatives be excepted from the principal review section of the proposed rule.

We are also concerned that the principal review requirements of the proposed rule may inhibit firms' utilization of current technology. A growing proportion of deferred variable annuity sales are processed and transmitted through electronic, automated means. This provides broker-dealers with many benefits, including auditable, demonstrable workflow, electronic capture and storage of all data elements and, in most technology implementations, incorporation of the broker-dealers' suitability criteria and flagging capabilities for suitability thresholds. Further, some firms have well developed technology that allows for the routing of these transactions based upon the nature of the transaction (such as 1035 exchanges), the extent to which thresholds were exceeded, and other firm specific criteria.

As this technology has advanced, some firms have refined their rules and thresholds such that a group of transactions which pass all criteria and thresholds can be electronically "approved". Others, which fall into questionable ranges or meet other criteria automatically, are queued for review by a branch manager, a specialized "central reviewer(s)" or any combination of reviewers. The logging of "approved" transactions is generally a key component of the technology which assures the technology is behaving as designed.

Another key benefit of this type of technology is its objectiveness. This ensures that thresholds and other firm criteria are applied to transactions objectively and consistently in an automated fashion. A manual process means, by definition, more opportunity for errors and misunderstanding. Additionally, overall firm supervision is enhanced through the creation of a data base which can accessed by principals as well as chief compliance officers as part of their ongoing review.

NAVA is concerned, based upon the wording of the proposed rule, that the ability to electronically adjudicate and "approve" transactions which are clearly inside the firm's defined thresholds will now be subjected to a manual review. This means that some trades not needing additional time and analysis will now be routed, along with transactions that ***do*** need additional human analysis, to branch managers and reviewers. As a consequence, firms that are concerned with scale would not be able to avail themselves of the efficiency gained through improving technology.

Therefore, it is recommended that the NASD not specify a manual review/approval process except for those transactions that fall outside of a firm's defined thresholds or meet other flags or criteria that mandate a manual review. This will allow firms, especially those processing on a large scale, the ability to spend more time with transactions that fall outside the thresholds, should they choose to employ electronic, automated transaction management. A registered principal should be required to review and sign off on the thresholds and screens established by the firm.

**V. Supervisory Procedures**

Section (d)(1) contains the same requirement as found in sections (b)(1)(A) and (c)(1)(A), and should also be deleted.

**VI. Training**

As stated earlier, NAVA supports the training component of proposed Rule 2821. One of NAVA's primary missions is to provide educational and informational resources concerning variable annuities to its members and the public, and we agree that sales personnel and registered principals should be thoroughly knowledgeable about the features of all of the products they recommend. In its filing of Amendment No. 1 to the proposed rule with the SEC, the NASD noted that it has found some questionable sales practices with variable annuities caused, in part, by the complexity of the product and inadequate knowledge of its characteristics.[10] We believe that a greater emphasis on training and education will result in the achievement of the goals underlying the proposed rule.

**VII. Date of Effectiveness**

The NASD stated in its filing with the SEC that it intends to announce the effective date of the proposed rule in a Notice to Members to be published no later than 60 days following Commission approval. It further stated that this effective date will be 120 days following publication of the Notice to Members announcing Commission approval. Thus, if the proposed rule is approved by the SEC, NASD members will have, at the most, 180 days to prepare for implementation. This is totally inadequate. The provisions of the proposed rule, particularly the principal review and supervisory procedures requirements, will necessitate significant systems and staffing changes. We request that, if the proposed rule is approved by the SEC, the effective date be no less than one year from the date of approval.

Again, we appreciate the opportunity to comment. If we can answer any questions or be of further assistance, please contact me at (703) 707-8830, extension 20, or Judith Hasenauer at (954) 545-9633. Ms. Hasenauer chairs NAVA's Regulatory Affairs Committee.

Sincerely,

Michael P. DeGeorge

Michael P. DeGeorge
General Counsel

[10] See File No. SR-2004-183, Amendment No. 1, at page 11.