February 22, 2007

I am a registered representative and an investment adviser representative. My clients are generally retired or are planning for retirement. Variable annuities generally comprise no more than 10% to 30% of a client's investment assets in my practice. However, they do provide an important component of their total investment portfolio. In particular, as a long-term instrument there are many clients who wish to have the features provided by annuities available in the marketplace today as a way to help them manage their risk exposure and provide some contractual obligations available to them that are not available through other investment instruments. While I understand the concerns that regulatory authorities have about the potential for misuse of variable annuities, I am not convinced that setting different and higher standards of suitability for the use of variable annuities is necessarily in the public interest. If the use of variable annuities becomes too onerous a process, i t is not likely that I will make use of them in the future. This, I think, will take away a useful instrument for planning and investment from my clients. The fact that some representatives may misuse a particular product should not prevent the rest of us from introducing its appropriate use. Further, if a particular variable annuity fails to offer the features presented in its prospectus, then the product should not be approved for use in the first place. There is a place for variable annuities in a client's overall portfolio, but I fear that extreme and hasty rulings governing their use will do no more than create confusion both in regulatory oversight, offerring firms, representatives and the investing public.

I am writing to share my concerns about Amendment No. 3 to SR-NASD-2004-183 ('Proposed Rule') filed by the NASD on November 15, 2006. The NASD is proposing to adopt a new rule, Conduct Rule 2821, to create recommendation requirements (including a suitability obligation), principal review and approval requirements, supervisory procedure requirements, and training requirements tailored specifically to transactions in deferred variable annuities ('VAs').

Because I have significant concerns about the provisions of the Proposed Rule, I urge the SEC to solicit additional comments from the industry before adopting the Proposed Rule. My concerns include the following:

1.Suitability Standard - Paragraph (b)(1)(A) of the Proposed Rule prohibits a registered representative from recommending the purchase or exchange of a VA unless he/she 'has determined that the transaction is suitable in accordance with Rule 2310.' This new language raises the bar for suitability determinations by requiring me to determine that my recommendation is suitable, rather than simply having 'reasonable grounds for believing that the recommendation is suitable' as required by Rule 2310. As a result, I believe the language in this paragraph should be amended to read as follows:

(b) Recommendation Requirements
(1) No member or person associated with a member shall recommend to any customer the purchase or exchange of a deferred variable annuity unless such member or person associated with a member has determined a reasonable basis to believe

(A) that the transaction is suitable in accordance with Rule 2310.

2.Obligation to Inform Customers of Features of VA Products - Subsection (b)(1)(A)(i) of the Proposed Rule prohibits a broker-dealer from recommending the purchase or exchange of a VA to a customer unless, among other things, it has a reasonable basis to believe that the customer has been informed, in general terms, of 'various' features of VAs including specific features which are delineated in the Proposed Rule. The use of the word 'various' in this provision creates an unacceptable level of ambiguity. The prior proposal required the disclosure of 'material' features of VAs. This language is preferable and should be reinserted into the Proposed Rule

3.Product Specific Suitability Criteria - Paragraph (b)(2) of the Proposed Rule provides that a financial advisor must make reasonable efforts to obtain certain product specific suitability information about the customer prior to recommending a VA purchase or exchange. Although I support the NASD's listing of the specific suitability criteria necessary to support a recommendation, I am concerned that certain product specific criterion listed by the NASD is either unclear or irrelevant to a suitability determination. I have the following specific concerns about the suitability criteria delineated by the rule:

.Investment Experience - NASD's inclusion of 'investment experience' as a criterion for determining suitability should be clarified. Is it the NASD's intention that it apply to the VA itself, the sub-accounts or both? Without some guidance, the industry is exposed to future interpretation without precedent or notice. Further, is it the NASD's perspective that no prior investment experience renders a purchase recommendation unsuitable?

.Intended Use of the Deferred Variable Annuity - I am concerned about the use of the term 'intended use of the VA?' How is this different from the customer's investment objective? Is either estate planning or tax deferral a legitimate "intended use" or would the NASD require a more detailed analysis? I would ask that the NASD elaborate on the meaning of this term or remove it completely from the rule.
.Existing Assets - The Proposed Rule has been amended to require the financial advisor to make reasonable efforts to obtain information concerning the customer's 'existing assets (including investment and life insurance holdings).' This language is overly broad in that it could potentially require representatives to obtain information about assets that have no impact on the suitability of their recommendation (e.g., automobiles or jewelry owned by the customer). I would recommend that the requirement be amended to obligate the representative to make reasonable efforts to obtain information concerning the customer's 'investable assets.'

4.Principal Review Standard - Paragraph (c) of the Proposed Rule requires a registered principal to 'review and determine whether he or she approves of the purchase or exchange of the deferred variable annuity.' The Proposed Rule goes on to say that 'a registered principal shall approve the transaction only if the registered principal has determined that there is a reasonable basis to believe that the transaction would be suitable' based upon the suitability criteria delineated in the recommendation requirements of the rule. This language obligates the registered principal to make a

separate suitability determination thereby placing him/her in the same shoes as the financial advisor making the sale. I find this objectionable as my supervisor will have to make his suitability determination without the benefit of meeting with my client to discuss their financial situation and objectives. This appears to be a significant deviation from the requirements of 3010(d)(1) which st ates in relevant part:

Each member shall establish procedures for the review and endorsement by a registered principal in writing, on an internal record, of all transactions... Such procedures should be in writing and be designed to reasonably supervise each registered representative. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the Association upon request.

As a result, I believe the language in the Proposed Rule paragraph should be amended to read as follows:

(c) .a registered principal shall consider the factors delineated in paragraph (b) of this rule in considering whether to approve or disapprove of the purchase or exchange of the deferred variable annuity.

5.Time Frame for Principal Review and Approval - The Proposed Rule requires a registered principal to review and determine whether he/she approves of a VA purchase or exchange within two business days of the date the broker-dealer transmits the customer's application to the issuing insurance company. The registered principal is granted three additional business days, for a total of five business days, if it is necessary in the course of the review to contact the customer or financial advisor. This limited review period is problematic and seems to have been arbitrarily adopted. While I understand that the NASD believes that requiring completion of the principal review within this time frame is necessary for the protection of investors, I fail to understand how investors would be harmed if another appropriate time frame were adopted. As a result, I would suggest that the Proposed Rule be revised to require the completion of principal review within a reasonable time-period (not to exceed the expiration of the free look period) following the date the broker-dealer transmits the VA purchase or exchange to the issuing insurance company.

6.Unintended Consequences - I fear that the Proposed Rule will ultimately harm customers by raising the barriers to their access to VA products. Singling out VAs for more stringent suitability requirements is likely to inhibit the sale of this important financial product. The result may very well be that VAs become less available to those who could benefit from them as legitimate vehicles for tax-deferred savings, estate, and retirement planning. I recognize that there have been some serious abuses involving the sale and exchanges of VAs. However, I do not believe the sales abuses have occurred because the NASD's rules and enforcement mechanisms were not strong enough to prevent them. Therefore, I urge the NASD to place additional emphasis on the enforcement of the existing Conduct Rules. In addition, I believe that more meaningful disclosures to customers via sponsor-created prospectuses or a disclosure document suggested by the NASD's Annuity Roundtable working group s will ultimately help to

eliminate most sales practice abuses.

As a result of these concerns, I urge the SEC to solicit additional industry comment before adopting the Proposed Rule.

Sincerely,

Mr. Christopher Anderson
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