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Office of the Corporate Secretary
JUL 29 2004
Notice To Members

July 25, 2004

Barbara Z. Sweeney
NASD
Office of the Corporate Secretary
1735 K Street NW
Washington, DC 20006-1500

Dear Ms. Sweeney,

Thank you for the opportunity to provide comment regarding sales practice standards of variable annuities. I am a registered representative who markets variable annuities and a registered principal who has approved variable annuities sold by other registered representatives. I currently serve as an industry arbitrator for NASD-Dispute Resolution, where I have experience in variable annuity cases involving unsuitable recommendations, inadequate supervision and neglect.

Here are my comments:

- A one-day principal review is onerous and costly. Such a quick review does not provide investor protection. For satellite representatives, this actually hinders the desired supervisory review process. Every state has a free-look period after the annuity contract is issued.
- To imply that variable annuities are unsuitable for qualified plans is unfair to the investing public and to the financial services industry. Lifetime income, a guaranteed death benefit and guaranteed fees are very important to aging Baby Boomers and others, especially when these guarantees are based on the claims-paying ability of a well-rated life insurance company.
- Enhanced living benefits riders and improved death benefits riders add to M&E charges, but these riders supply peace of mind not found in competing products. The cost is about the same as the B-share class of mutual funds.
- There are complex features of variable annuities. As member firms, we are required to explain and disclose those features. But what about equity-indexed or equity-linked annuities? The features of these contracts are even more complex with point-to-point and index-averaging schemes, as well as participation rates and caps that limit performance. They are often sold by untrained insurance agents under a fixed annuity guise. These little-understood policies are sold like this, as I heard an insurance agent say, "Let's say I was in a schoolyard with you and offered to flip a coin. Heads you win,

tails you break even, would you play? Sure you would, all day. If I could show you a product where you would get the upside of the stock market with insurance against loss, wouldn't you want to get in? Could you afford not to?" Where is the investor protection against these equity products and aggressive sales practices which target the public without disclosure? Double digit commissions await the agents without going through a broker/dealer.

- Blank new account forms and blank applications signed first by the client and filled in later by the representative/agent are not addressed by the proposed supervisory requirements. As an arbitrator, I have seen more than one case alleging such behavior.

In conclusion, it is punitive to tighten certain existing rules governing the sale of variable annuities since it makes a more uneven competitive playing field against indexed annuities. It is onerous to apply one day principal/supervisory review. It is wrong to assume that a deferred variable annuity is inappropriate for tax-qualified retirement accounts. The problem of representatives/agents who are getting blank forms signed will not be addressed by the proposed guidelines. In plain English, the proposals do not get rid of the bad guys.

These are my personal opinions as an experienced producer and do not reflect the opinion of my Broker/Dealer, Office of Supervisory Jurisdiction, compliance department, or its executive leadership.

Respectfully submitted,

Joe Storthz

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