

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015043292101**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: FTB Advisors, Inc., Respondent
Member Firm
CRD No. 17117

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent FTB Advisors, Inc. ("FTB", "Respondent" or "Firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

FTB has been a member of FINRA since July 1986. The Firm conducts a general securities business and is headquartered in Memphis, Tennessee. FTB has approximately 355 associated persons and 82 branch offices.

RELEVANT DISCIPLINARY HISTORY

FTB has no relevant disciplinary history with the Securities and Exchange Commission, any state securities regulator, or any self-regulatory organization.

FACTS AND VIOLATIVE CONDUCT

From January 2013 through December 2014 (the "Relevant Period"), FTB sold individual multi-share class variable annuities ("VAs") to its customers totaling over \$27 million in principal investments. Of those VA sales, more than 19%, totaling \$5 million in investments, were L-share contracts. More

significantly, these L-share contracts were more than 37% of the VAs sold by FTB during this time period. Despite the significant role that VA sales played in FTB's overall business, the Firm failed to implement an adequate supervisory system and procedures designed to reasonably ensure suitability in its multi-share class VA sales, including L-share contracts.

FTB sold VA contracts with the option of various different share classes. The B-share contract is the most common share class sold in the industry and typically has a seven-year surrender period. L-share contracts typically provide a shorter surrender period, of three to four years, than B-share contracts, which typically have a surrender period of 7 years. Insurance companies design L-share contracts so that customers pay a higher fee for the benefit of a shorter surrender period. The L-share contract provides the flexibility of a shorter surrender period and the fees associated with L-share contracts, which are assessed as long as the contract is held, are typically between 35 and 50 basis points higher annually than most B-share contracts. L-share contracts are designed for investors with short-term time horizons or who want the optionality of being able to surrender the L-share contract sooner than a B-share contract. Pursuant to the terms established by the insurance company manufacturers, if a purchaser chooses not to surrender an L-share contract during the surrender period, the purchaser continues to pay a higher annual fee for the life of the contract, unless the contract provides for a "persistency credit."¹

Despite the fact that 37% of the VAs sold at FTB during the Relevant Period were L-share contracts, the Firm failed to establish, maintain, and enforce an adequate supervisory system and written supervisory procedures ("WSPs") related to the sale of multi-share class VAs. FTB also failed to provide sufficient training to their registered representatives and principals on the sale and supervision of multi-share class VAs. FTB's WSPs and training materials failed to sufficiently provide registered representatives and principals guidance or suitability considerations for sales of different VA share classes. More specifically, the Firm did not provide sufficient training or guidance to their registered representatives on the features of various available share classes, the associated fees and surrender charges, and did not provide them with adequate information to compare share classes to make suitability determinations.

Because of the lack of sufficient training and guidance during the Relevant Period, registered representatives did not have the tools to present potential purchasers with a side-by-side comparison of the fees and surrender charges or other information detailing the potential impact of the increased fee if the

¹ Some L-Share contracts have a specific provision, commonly called a "persistency credit," which reduces the annual fees so it is comparable to a B-share contract after the product is held for a period of time, generally seven to ten years.

L-share contract was held by the customer for a long term.

In addition, FTB failed to establish, maintain, and enforce WSPs or provide sufficient guidance or training to their registered representatives and their principals on the sale of long term income riders with multi-share class VAs, particularly the combination of L-share contracts with long-term income riders.

Based on the foregoing, FTB violated NASD Rule 3010(a) and (b) (for conduct before December 1, 2014) and FINRA Rules 2330(d) and (e), 3110(a) and (b) (for conduct on and after December 1, 2014) and 2010.

B. Respondent also consents to the imposition of the following sanctions:

Censure and a \$250,000 fine.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against it;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and

then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudice of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against it; and
- C. If accepted:
 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing

in this provision affects Respondent's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

OCTOBER 24, 2016
Date

FTB Advisors, Inc., Respondent

By: Paul Mann
(Signature)

Name: PAUL MANN
(Print Name)

Title: CCO

Reviewed by:



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Accepted by FINRA:

November 2, 2016
Date

Signed on behalf of the
Director of ODA, by delegated authority



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