

Dear Ms. Barbara Sweeney:

I am a licensed insurance agent and variable product registered representative, as well as a CFP practitioner. Additionally, I am a former Chief Compliance Officer of an NASD registered broker/dealer. As such, I have seen compliance efforts and their effects from both sides of the fence, both sales and compliance.

I am opposed to this proposed regulation that would require duplicative paperwork in the form of additional disclosure for variable annuity sales. I mirror the concerns of NAIFA in that this proposed regulation is not a solution to a problem, but rather, is an invitation for failure. I agree with NAIFA that efforts should be directed towards the efficient enforcement of in-force regulations, which the NASD has already thoughtfully considered and effected. The problematic compounding effect of placing yet another "bandaid" regulation on the shoulders of an already burdened sales force needs to be quickly abandoned.

If the NASD's concern regards less than professional reps/agents who don't adequately disclose VA risks in the first place, and who represent only a small minority of the sales force, then creating yet another burden of additional disclosure does nothing to create an incentive for these same reps/agents to properly disclose. These same reps/agents will probably be the ones who fail to provide their customers with the "new disclosure" anyway, since they are not diligent or ethical enough to properly disclose in the first place. Therefore, this new regulation would only introduce additional unnecessary burdens, and therefore punish diligent and ethical reps/agents who DO properly disclose and properly manage their clients' assets. Identification of "rogue" brokers and agents and their proper sanction is what's needed, not more regulation.

I firmly believe that people who engage in misleading sales practices should be aggressively prosecuted and subject to meaningful sanctions. However, your proposal would duplicate requirements that are already in place. NASD rules already contain a general suitability rule that applies to all sales of securities, including variable annuities. If regulators really want to protect consumers, appropriate enforcement of the existing suitability rule rather than adopting a new rule is the answer. Likewise, variable annuity prospectuses, which are already reviewed by the SEC, already discuss the fees, risks and expenses associated with variable annuities. Requiring a separate "risk disclosure document" would duplicate information already found in the prospectus and reduce the likelihood that consumers will read the most important source of information on the

product -- the prospectus. Instead, NASD should focus its efforts on getting consumers to carefully read the prospectus they receive.

Finally, I believe that the proposal is a "solution in search of a problem." I do not think the available data supports NASD's claims that the level of sales problems in the variable annuity marketplace calls for the adoption of the proposed rule. For these reasons, I urge NASD withdraw the proposed rule. Thank you for your consideration of my views on this matter.

Sincerely,

Ross Levin  
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