

VIA EMAIL

June 13, 2008

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 08-26, Proposed Consolidated FINRA Rules Addressing Investor Education and Protection

Dear Ms. Asquith:

The Committee of Annuity Insurers (“Committee”)¹ submits this comment letter in response to FINRA’s request for comment on the above-referenced proposal.

BACKGROUND ON PROPOSED AMENDMENTS

FINRA proposes to adopt new FINRA Rule 2267 based on current NASD Rule 2280. Under proposed Rule 2267, member firms would be required to provide customers with FINRA’s website address and information related to FINRA’s BrokerCheck program at least once every calendar year. The new rule would provide exceptions for a member firm that (1) does not have customers, or (2) is an introducing firm whose carrying firm member complies with the rule. The exception under proposed Rule 2267 appears narrower than the exception to Rule 2280, which excepted any member firm that “does not carry customer accounts and does not hold customer funds or securities.”

COMMENTS

The Committee is particularly concerned about the exception provided under proposed Rule 2267. As you are aware, variable annuity issuers typically distribute such products through a principal underwriter that is both registered with the SEC as a broker-dealer and a member firm of FINRA (“Principal Underwriter”). In the typical scenario, the

¹ The Committee of Annuity Insurers is a coalition of 33 life insurance companies that issue fixed and variable annuities. The Committee was formed in 1981 to participate in the development of federal securities law regulation and federal tax policy affecting annuities. The member companies of the Committee represent over two-thirds of the annuity business in the United States. A list of the Committee members is attached at Appendix A.

Principal Underwriter will enter into selling agreements with other member firms (“Selling Firms”) which engage in retail variable annuity sales activities. Under those circumstances, the Committee believes that it is appropriate for purposes of proposed Rule 2267 to determine that the purchaser of the variable annuity contract is only a customer of the Selling Firm, and not a customer of the Principal Underwriter. The Committee strongly recommends that FINRA issue a clarification that, under the facts described above, the Principal Underwriter may rely on the exception for a firm with “no customers.”

In addition, the Committee seeks clarification that a Selling Firm may rely on appropriate disclosure in the variable annuity prospectus to meet its obligations under proposed Rule 2267. As you are aware, federal securities laws impose a duty to update variable annuity prospectuses on an annual basis. The Committee urges that FINRA clarify that Selling Firms may rely on appropriate variable annuity prospectus disclosure including the required disclosures to meet their obligations under proposed Rule 2267.

CONCLUSION

The Committee appreciates the opportunity to comment on proposed Rule 2267. The Committee welcomes any questions you may have about the comments identified in this letter.

Respectfully Submitted,

SUTHERLAND ASBILL & BRENNAN LLP

By: Cliff E. Kirsch
Clifford E. Kirsch

By: Eric A. Arnold
Eric A. Arnold

APPENDIX A

THE COMMITTEE OF ANNUITY INSURERS

AEGON USA, Inc.
Allstate Financial
AIG Life Insurance Companies
AmerUs Annuity Group Co.
AXA Equitable Life Insurance Company
Commonwealth Annuity and Life Insurance Company
Conseco, Inc.
Fidelity Investments Life Insurance Company
Genworth Financial
Great American Life Insurance Co.
Guardian Insurance & Annuity Co., Inc.
Hartford Life Insurance Company
ING North America Insurance Corporation
Jackson National Life Insurance Company
John Hancock Life Insurance Company
Life Insurance Company of the Southwest
Lincoln Financial Group
MassMutual Financial Group
Merrill Lynch Life Insurance Company
Metropolitan Life Insurance Company
Nationwide Life Insurance Companies
New York Life Insurance Company
Northwestern Mutual Life Insurance Company
Ohio National Financial Services
Old Mutual Life Insurance Company
Pacific Life Insurance Company
Protective Life Insurance Company
Prudential Insurance Company of America
RiverSource Life Insurance Company
(an Ameriprise Financial company)
Sun Life Financial
Symetra Financial
The Phoenix Life Insurance Company
USAA Life Insurance Company