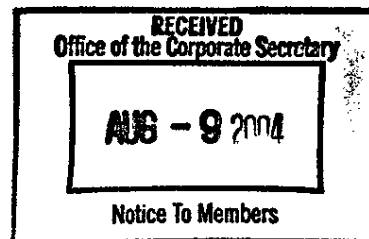


DIRECTED SERVICES, INC.



August 6, 2004

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

**Re: Comments on Notice to Members 04-45
Proposed Rule Governing the Purchase, Sale or Exchange
Of Deferred Variable Annuities**

Dear Ms. Sweeney:

Thank you for giving us the opportunity to comment on the above-referenced rule proposal (the "Proposed Rule"). This letter of comment on the Proposed Rule is respectfully submitted by Directed Services, Inc. ("DSI"), a subsidiary of ING Groep, N.V. ("ING") and broker-dealer distributor of the deferred variable annuity contracts issued by insurance company members of ING. The retail broker-dealer subsidiaries of ING have submitted a letter of comment reflecting additional observations relating to the impact of the Proposed Rule on their businesses.¹

The focus of this letter is on the additional disclosure and prospectus delivery requirements contained in section (b) of the Proposed Rule; specifically, the requirement of a "plain English" risk disclosure document that highlights the main features of the particular variable annuity transaction. It is respectfully submitted that such a requirement would cause unwarranted additional burdens, risks and costs to DSI and ING and potentially create confusion for its variable annuity contract owners.

We agree that customers may benefit from a summary document that describes the basic features of variable annuity contracts and discusses issues germane to variable annuity transactions generally. However, we do not believe that the Proposed Rule's requirement that member firms deliver a separate "risk disclosure" document "highlighting the main features" of the particular variable annuity transaction is necessary, and could in fact be counterproductive.

The proposed risk disclosure document would require brief disclosure of the main features of the deferred variable annuity that is the subject of the contemplated transaction. Because most of the specified disclosure items are already discussed in

¹ Please see letter from John S. Simmers, CEO, ING Advisors Network.

detail in the contract prospectus, we are concerned that any even minor discrepancies between the brief disclosures contained in the proposed risk disclosure and the more expansive disclosure contained in the prospectus will cause confusion and increase the potential for disputes. This is particularly troublesome given that the proposed risk disclosure will be prepared by retail broker-dealers who may be preparing similar documents for a variety of variable annuity products issued by a wide range of insurance companies, rather than the insurance company issuer of the variable annuity which prepares the product prospectus.

Further, the Proposed Rule enumerates required categories of information to be included in the proposed risk disclosure document that cannot be appropriately and thoroughly addressed in a brief summary document. To take one example, the Proposed Rule would require a discussion of "federal and state tax treatment," a topic that our variable annuity prospectuses cover in three or four pages of text. We believe that shortening this material to the few sentences necessary for inclusion in a "brief" disclosure document runs the risk of rendering the disclosure largely meaningless at best, and misleading at worst. In short, the result of this provision of the Proposed Rule would be a document that either sacrifices thoroughness and clarity for brevity, or a lengthy document that becomes another prospectus, which would do little to accomplish the NASD's goals or to improve investor understanding of variable annuities.

In addition to federal securities laws considerations, state-by-state insurance laws must be considered. Those state laws dealing with filing and prior approval by insurance regulators must be analyzed and the impact on risk disclosure document development, delivery and the sales processes assessed.

For example, the Proposed Rule requires the risk disclosure document to inform customers whether a "free look" period applies to the contract "during which the customer can terminate the contract without paying any surrender charges and receive a refund of his or her purchase payments." This disclosure would be duplicative, as disclosure regarding the contract owner's free look rights is already prominently displayed in the annuity contract, which is delivered to the contract owner. Also, in accordance with the laws in a majority of states, many variable annuity contracts return the current contract value rather than the purchase payment (or the greater of the two) if a customer elects to terminate the contract. Thus, to reflect the laws of the various states, at a minimum, this provision in the Proposed Rule would need to be modified to accurately reflect the governing state law.

Beyond these "legal" concerns, the costs of the risk disclosure document to the insurance company and/or broker-dealer would be huge in terms of systems required to keep such documents updated and to monitor their use. In this regard, retail broker-dealers with which we have selling agreements to sell our products may have selling agreements with a large number of variable annuity issuers and distributors. As is true with other variable annuity distributors, we distribute a wide range of variable products which offer customers the ability to tailor the product with various options and riders, many of which affect the product's costs. This would require retail broker-dealers to maintain an

inventory of potentially hundreds of disclosure documents, which, as a practical matter, will not only increase cost, but also increase the potential for error due to confusion as to which document is applicable to the particular product. The costs of production and maintenance of these documents and the additional personnel required to monitor their updating and usage would be unworkable, particularly for smaller broker-dealers.

In light of the risk that this aspect of the Proposed Rule may worsen the very problem it is seeking to solve, we respectfully recommend that the NASD re-propose or reconsider the requirement governing the risk disclosure document. If such a document is deemed necessary, we believe that the type of disclosure document contemplated by the NASD would be most appropriately generated by each product's issuer and included in the product prospectus. If the NASD determines that the contract highlights or summary section appearing in the front of many variable annuity prospectuses is an insufficiently clear or brief source of information, we would ask that it coordinate its efforts with those of the SEC, as well as seek industry input, to modify this element of the prospectus to better serve variable annuity investors.

Respectfully submitted,



James R. McInnis, President
Directed Services, Inc.