

Ladies and Gentlemen, I am writing to submit my comments on your proposed rule governing the sale of variable annuity products. I am an attorney who represents investors in arbitration. In the last several years I have received many calls from investors who purchased these products at their local banks. Many banks have sales people sitting on their premises hyping these products without explanation, and telling investors that they were and or are fools to leave their savings in cash instruments. The commission structure on these products should also be subject to disclosure in your proposed rule....because they are certainly heavily promoted. Many of these investors whom I have spoken with have lost sums insignificant enough for them to afford counsel, but representing the substantial portion of their life's savings and future retirement.

All of the disclosures of NTM99-35 and the proposed supervisory requirements for review, and the possible opt out time window are appropriate to incorporate into the rule to prevent some of the past and ongoing improper conduct as regards annuity products. These proposals are good because they take a step at requiring the industry to explain the downside of investment in a variable annuity product and they comport with the general principles of the securities laws.....full and FAIR disclosure. Because annuity products are by their nature complicated these rules will go a long way towards preventing the misrepresentations which have occurred in the past from continuing, if complied with.

I also highly recommend that some clause be included into the proposed rule that no brokerage firm be permitted to object to use of the rules and or compliance with the rules and guidelines in any arbitration proceeding or litigation or to argue that violation of NASD rules does not constitute a private cause of action. This frequently is argued by brokerage firms in the post mortem proceedings of financial debacles for investors.

These rules should be approved and monitored as to enforcement in NASD inspections.

Violations of these rules should be made public and the public given access to the details of any violations for recourse through arbitration or the courts where appropriate. Only then will some deterrent effect be brought to bear upon the sales personnel and industry in this highly lucrative insurance/bank product area prone to abuse and misrepresentation, and with easy access to the public by virtue of their placement on site at local banks.

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