

I realize this will be received beyond the August 9th, cut-off date, however, I think it is important that I write you anyway.

Your recent proposals regarding VA procedures and suitability requirements seem reasonable. I have been involved with the Variable Annuity business since 1986. I am currently a registered representative with ISI, inc. and have an office in West Palm Beach, Florida. Previous to this, I have been a VA wholesaler, national sales manager, product designer, and have been involved with the investment manager process of nationally recognized insurance and mutual fund companies.

In my experience, the variable annuity represents one of the best methods to invest in financial markets whose risk levels have increased beyond reasonable levels. There is not an investment available today that provides the type of guarantees that variable annuities provide clients.

However, there is a trade-off of fee structure and their guarantees versus the managed approach that is available within mutual funds. Normally, the management fee of variable annuities, paid to money managers is much lower than those offered by mutual fund providers. However, as you have mentioned, the guaranteed death benefit provisions, living benefit provisions, and additional features and their related benefit guarantees do cost more money. The NASD may ask; What is a reasonable fee structure? However, Investors ask; what is a reasonable level of return?

Where else in our industry can an investor go to invest money and negate market risk?

My suggestions, and how I personally manage my business, includes the formalized approach of showing clients the fee structure of the guarantees that they have selected with the VA they purchased. (We provide a documented "Recommended Changes" form that provides for both fee structure and surrender charge information, and ask for client signature signifying that these fees have been explained.)

Furthermore, asset management needs to fulfill fiduciary requirements that have been similarly mandated for ERISA dollars using Prudent Man Rules. In my opinion, modern portfolio theory, should be used to invest client

dollars. However, this should not be a mandated requirement. If the NASD mandates less consumer choices, the consumer loses.

Your proposal to limit to either a dollar amount or percentage of a client's net worth their ability to invest in variable annuities is totally unreasonable. Once again, the suitability of a client's retirement portfolio needs to incorporate worst case scenarios that could potentially wipe-out a client's savings. How does a client protect themselves from events that are totally out of their control. Furthermore, how can an investment financial advisor foresee events similar to those that occurred in 2000 through 2002, as well as current market conditions? Investment consultants are not soothsayers. The variable annuity is the only investment that has provisions that can mitigate against these unforeseen events.

By limiting, either by dollar amount or percentage, the amount an individual investor can invest in variable annuities, the NASD limits an investor's ability to protect themselves from market events and lifestyle events that would normally result in catastrophic losses. Will the NASD make-up the losses that could occur to a stock, bond, or mutual fund portfolio in the event of death, disability, or normal market losses?

The only investment which can mitigate this risk is the variable annuity (guaranteed).

In the event the NASD chooses to mandate these proposed changes, the NASD should also mandate changes to an investor's ability to own risky equities, risky bonds, and risky real estate investments. Within each of these investment categories, the risk may significantly outweigh the returns. This is especially true when the latest Dalbar studies show how poorly individual investors' portfolio returns are in comparisons to market returns. Furthermore, even with investment advisors, these returns severely lag the market.

Finally, I think the NASD should do more to protect investors from the firms that shower the marketplace with debt instruments and IPO's that have been issued by companies with business models that are of much higher risk. There wasn't one variable annuity owner with an estate that wasn't made whole by a death benefit or living benefit that lost money due to Enron, Global Crossing, et. al.

I think the real reason variable annuity issues have arisen is that the NASD does not fully understand how these programs work, that the studies which have more than proven their value have been overlooked, and that national financial pundits have hammered them so badly, because of fee misconceptions. Too bad, the industry is in danger of losing a very user friendly investment, and the real losers will be the consumers you are attempting to protect.

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