



August 6, 2004

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

Re: Request for Comments – NASD NtM 04-45  
Proposed Rule Governing the Purchase, Sale, or  
Exchange of Deferred Variable Annuities

Dear Ms. Sweeney,

Carillon Investments, Inc., a subsidiary of The Union Central Life Insurance Company, would like to submit the following comments pursuant to the instructions found in NASD Notice to Members 04-45.

P.O. Box 40409

We are an insurance-affiliated broker-dealer offering both proprietary and non-proprietary variable annuities through registered representatives who are also affiliated with our parent insurance company. We strive to conduct our business according to regulatory requirements and regularly monitor our representatives' activities to insure compliance with applicable suitability guidelines.

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We are of the opinion that the proposed variable annuity sales practices and supervisory standards proposed by the NASD could create serious operating problems for broker-dealers without providing investors the intended degree of protection. A review of past disciplinary actions against representatives concerning improper variable annuity sales practices shows that in many instances the impropriety would not have been prevented by the proposed rule. Unfortunately, no amount of regulation can change ethical shortcomings inherent to certain individuals and business entities in our industry. The NASD has several supervisory rule proposals pending approval and we believe that, in themselves, these new rules, such as heightened supervision, would help address many of the variable annuity issues targeted by this proposal. Furthermore, the recent initiative by the NASD to impose business restrictions on broker-dealers as part of its disciplinary sanction will also force broker-dealers to give more serious attention to the best practices communications proffered by the NASD and other regulators.

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The rule proposal presents the following concerns:

1. **Proposed Point-of-Sale Risk Disclosure Brochures.** The proposal for each broker-dealer to create, maintain and update its own version of risk disclosure brochures for each variable annuity it offers would be prohibitively costly and impractical. Variable annuity sponsors spend a lot of time, effort and money to publish a prospectus for each variable annuity they offer. The consequences of having a multitude of broker-dealers preparing their own disclosure document

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based on their interpretation of the information contained in the prospectus will lead to contradictory disclosures. If such a brochure is found to be a necessity, it should come from the product issuer, not from the broker-dealer. On behalf of our parent company, we offer the consideration that it will be cost-prohibitive for variable annuity issuers to create additional disclosure documents that present any variable annuity's array of options in a personalized way for each individual purchaser. We would prefer this not to be a separate document but instead be a specific summary page required in the prospectus.

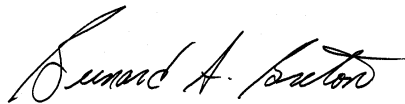
2. **Suitability Determination.** The proposed rule addresses the need for the broker-dealer to make a suitability determination regarding the proposed annuity sale. However, while the NASD acknowledges that a variable annuity contains both an insurance component and a security component, it gives little or no weight to the insurance feature of the variable annuity in the suitability analysis. This is a critical component of the product and can be one of the principal reasons for selecting this product. It cannot continue to be ignored by regulators as it has been in the past. We suggest that items such as death benefit, stepped up death benefits or protected return of premiums be also a component of the suitability analysis.
3. **Suitability of Variable Annuities in Tax-Qualified Retirement Plans.** The proposed rule suggests that variable annuities in tax-qualified retirement plans are automatically unsuitable. There are features to variable annuities that make them attractive as funding vehicle for tax-qualified retirement plans for suitable investors even though they do not derive additional tax advantages: The insurance benefit (see above), maximization of contributions to retirement plans, access to multiple investment options from different mutual fund providers inside one contract, particularly for those investors who do not have a large enough initial investment to diversify among portfolios at a retail mutual fund complex.
4. **Customer Information.** Section (a) (2) of the proposed rule requires firms to obtain additional information about customers purchasing variable annuities. Multiple standards for various products lead to confusion and additional expenses. The NASD should restrict itself to requiring the suitability information that is to be confirmed by broker-dealers under SEC Rule 17a-3 and not set varying parameters for selected products.
5. **Replacements, Comparisons, Exchanges.** The proposed rule requires a comparison of the old annuity's features and costs with the replacement policy's features and costs. This is not always possible because the client may not have possession of the former contract or the original prospectus and only possesses account statements. In many instances, these old contracts are no longer offered for sale and/or serviced and their features do not compare with the enhanced products available in today's market.
6. **One Business Day Turnaround.** The proposal requires a one business day turn around after the customer signs the application. This is impossible in many instances because insurance-affiliated registered representatives often operate in

detached locations and forward their applications to the OSJ by US mail. A shift to overnight mail and expedited reviews would further increase the costs in the product and further damage investors. Suitability review takes place at the OSJ where a principal reviews the information on the application and ensures that all relevant documents are present and complete. If the NASD desires a competent and complete suitability review, it must provide the principal with an adequate period of time to complete this review. We suggest the proposal be amended to require principal signoff within one business day of receipt by the principal.

7. **Standards for Principal Review.** The proposed rule offers no guidance for the development of “red flags” standards. Guidance in this area would be of great benefit in view of the NASD’s experience in reviewing and assessing numerous complaints in addition to its examination activities.

It is our firm’s belief that the proposed rule, once modified, should be modeled after the “best practices” guidelines discussed in NTM 99-35. Enforcement of existing rules should continue with the application of new suitability guidelines provided by the NASD.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bernard A. Breton". The signature is written in a cursive, flowing style.

Bernard A. Breton  
Chief Compliance Officer