

July 9, 2014

Ms. Elizabeth M. Murphy  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Re **Enhanced Disclosure for Variable Annuities  
Semiannual Regulatory Agenda, RIN 3235-AK60  
File No. S7-04-14**

Dear Ms. Murphy:

On behalf of the Committee of Annuity Insurers (the “Committee”),<sup>1</sup> we are submitting this comment letter regarding the Securities and Exchange Commission’s (the “Commission”) recently published Semiannual Regulatory Agenda (the “Agenda”).<sup>2</sup> More specifically, we are writing to comment on the extension of the anticipated timeline as reflected in the Agenda for a rulemaking project which is titled “Enhanced Disclosure for Separate Accounts Registered as Unit Investments Trusts and Offering Variable Annuities” and listed as RIN 3235- AK60 (the “Variable Annuity Summary Prospectus Project”).

As set forth in more detail below, the members of the Committee are very concerned with what appears to be a further five or six month delay in a very important and longstanding rulemaking project for the Commission, the Committee and investors. Commissioners and senior members of the Commission staff have publicly stated on many occasions that, once it is implemented, the Variable Annuity Summary Prospectus Project should benefit millions of

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<sup>1</sup> The Committee was formed in 1982 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of securities, banking, and tax policies regarding annuities. For three decades, the Committee has played a prominent role in shaping government and regulatory policies with respect to annuities, working with and advocating before not only the Commission but also the CFTC, FINRA, IRS, Department of Treasury, Department of Labor, relevant Congressional committees, and the National Association of Insurance Commissioners. Today the Committee is a coalition of many of the largest and most prominent issuers of annuity contracts. The Committee’s member companies represent more than 80% of the annuity business in the United States. A list of the Committee’s member companies is attached as Appendix A.

<sup>2</sup> Regulatory Flexibility Agenda, Release Nos. 33-9563, 34-71771, IA-3803, IC-30989, File No. S7-04-14 (79 Fed. Reg. 34208, June 13, 2014).

American investors in making important investment decisions to save, invest, and plan for their retirement and other long-term investment needs.

The Variable Annuity Summary Prospectus Project relates to developing a streamlined and layered disclosure framework for variable annuity products registered with the Commission under the Securities Act of 1933 (the “1933 Act”) and supported by insurance company separate investment accounts registered under the Investment Company Act of 1940 as unit investment trusts. The Agenda indicates that the anticipated date for publishing a notice of proposed rulemaking related to this project is March, 2015, whereas the semiannual regulatory agenda published in the fall of 2013 had set forth an October, 2014 date. It is unclear whether the deferral of this date reflects a change in the priority of the Variable Annuity Summary Prospectus rulemaking relative to other rulemaking projects. Even if it does not, however, the Committee urges both the Commission and its staff to accelerate this important rulemaking project so that investors can have the benefit of more streamlined and readable disclosure within the next year.

Many parties, including Commission staff, the Committee and the Insured Retirement Institute (“IRI,” formerly the National Association for Variable Annuities, or NAVA) have devoted substantial time and resources, working together and collaboratively on this project since 2008. The project builds on the Commission’s success in implementing a summary prospectus for mutual funds, and involves developing a variable annuity summary prospectus that could be used as an offering document in a layered disclosure context, to satisfy Section 5(b)(2) of the 1933 Act. It also entails developing a summary update prospectus that could provide millions of existing variable annuity contract owners, who otherwise receive a full offering prospectus each year containing mostly repetitive and irrelevant information, with a document providing a concise roadmap to any material prospectus changes to the offering over the past year. In addition, an important part of the overall project, as advocated by the Committee and the IRI, is to provide, consistent with the protection of investors, for effective delivery through electronic access to prospectus documents.

It is acknowledged by all that the time has come for a substantial overhaul of the variable annuity prospectus disclosure regime. Prospectuses for the top-selling variable annuities typically exceed 150 pages, contain voluminous legal, actuarial, and regulatory language that is undeniably challenging for investors to comprehend, and for the most part are seldom if ever read.<sup>3</sup> These disclosure documents do not concisely provide investors with information regarding benefits, costs, and risks in a useful and practical format that enhances the investors’ decision-making process. This unfortunate situation is due, in large part, to the need to meet the requirements of the Form N-4 Registration Statement (which was adopted several decades ago and has not been revised or updated significantly since then). Whatever the cause, the industry clearly recognizes the conundrum and has been working diligently (as has the Commission’s staff) for over five years to solve it. We commend the staff for its open-mindedness and hard work on this initiative, and the time they have devoted to helping to fashion a solution (within

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<sup>3</sup> See IRI Study, June 2011, presented to the SEC and available in the course book for the ALI-ABA Conference on Life Insurance Company Products, November 3–4, 2011, p. 25- 28.

the limitations of their other responsibilities and priorities). We also appreciate that senior Commission staff have publicly acknowledged the importance and value of this initiative in numerous speeches in recent years. (*See, e.g.*, Division of Investment Management Director Norm Champ's March 27, 2014 speech at the ICI Mutual Funds and Investment Management Conference; Director Norm Champ's June 18, 2013 speech to the IRI Government Legal & Regulatory Conference; Associate Director Susan Nash's June 26, 2012 speech to the IRI Government, Legal & Regulatory Conference).<sup>4</sup> But now is the time to act.

Mutual funds, which are offered to many of the same investors as variable annuity products, had faced many of the same disclosure challenges. In 2007, the Commission proposed a consumer-friendly overhaul of the mutual fund disclosure regime that greatly simplified and shortened the prospectus disclosure provided to investors, and allowed the use of a "Summary Prospectus" for all mutual fund investors and "layered disclosure" for those investors who desired more detailed or additional information. The Commission unanimously adopted these mutual fund disclosure enhancements, which were made effective on March 31, 2009.<sup>5</sup> Therefore, for years now, retail mutual fund investors have enjoyed the benefits of a mutual fund summary prospectus and layered disclosure. The summary mutual fund prospectus has proven to be a great success, for retail investors, the fund industry and the Commission.

There is no substantive reason why the benefits of streamlined and layered disclosure should not be available to variable annuity investors. The Variable Annuity Summary Prospectus Project is not controversial from a policy standpoint. However, the most recent Regulatory Agenda would seem to indicate that the current state of retail variable annuity disclosure (with its cumbersome statutory prospectus and no layered disclosure) will continue until at least 2016 -- eight years since the IRI's formal rule petition was submitted, seven years after Chairman Schapiro publicly supported the initiative<sup>6</sup> and four years after Director Champ assumed his role.

We realize, of course, that the Commission and its staff have other and competing priorities, and that within the realm of rulemaking, for example, the Commission has been burdened with numerous, and significant, projects and deadlines, including rulemaking deadlines mandated by the Dodd-Frank Act. Nevertheless, the extensive amount of work put into this initiative over many years by both the industry and the Commission staff demonstrate our sincere

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<sup>4</sup> See Champ, Norm. "Remarks to the 2014 Mutual Funds and Investment Management Conference." Mar. 17, 2014. Web. <[http://www.sec.gov/News/Speech/Detail/Speech/1370541168327#.U71Ne\\_IdWVE](http://www.sec.gov/News/Speech/Detail/Speech/1370541168327#.U71Ne_IdWVE)>; Champ, Norm. "Remarks to the 2013 Insured Retirement Institute Government, Legal & Regulatory Conference" June 18, 2013. Web. <<http://www.sec.gov/News/Speech/Detail/Speech/1365171606081#.U71XAvldWVE>>; Nash, Susan. "Remarks to the IRI 2012 Government, Legal & Regulatory Conference". June 26, 2012. Web. <[http://www.sec.gov/News/Speech/Detail/Speech/1365171490664#.U71Xz\\_IdWVE](http://www.sec.gov/News/Speech/Detail/Speech/1365171490664#.U71Xz_IdWVE)>

<sup>5</sup> See Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Rel. Nos. 33-8861 and IC-28064 (Nov.23, 2007) (Proposing Release) and 33-8998 and IC-28584 (Jan. 13, 2009) (Adopting Release).

<sup>6</sup> See Schapiro, Mary. "The Consumer in the Financial Services Revolution." Dec. 3, 2009. Web <<http://www.sec.gov/news/speech/2009/spch120309mls.htm>>

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belief that this initiative will greatly improve disclosure for variable annuity investors with a modest investment of additional Commission resources.

We appreciate your consideration of these comments. The Committee and its members stand ready to provide any additional assistance or information that the Commission or its staff may find helpful and to otherwise assist in any way so that enhanced, streamlined and layered disclosure about variable annuities can be provided to investors.

Respectfully submitted,

SUTHERLAND ASBILL & BRENNAN LLP

BY:   
Stephen E. Roth

FOR THE COMMITTEE OF ANNUITY  
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