

By E-mail: Pubcom@nasd.com

August 5, 2005

Barbara Z. Sweeney
NASD
Office of the Corporate Secretary
1735 K. Street, N.W.
Washington, D.C. 20006-1500

Re: Request for Comment, Notice to Members 05-40
Proposed Rule Governing Sales Contests and Non-Cash Compensation

Dear Ms. Sweeney:

This comment letter is submitted on behalf of Transamerica Financial Advisors, Inc. (CRD #3600), a full-service broker-dealer with about 1,000 registered representatives selling mutual funds, variable life insurance, variable annuities, and general securities. Transamerica Financial Advisors ("TFA") is submitting our comments about the proposed rule regarding sales contests and non-cash compensation, as described in NTM 05-40 ("Proposed Rule").

Non-Cash Compensation Extension to All Securities

TFA agrees with NASD that the general prohibitions concerning payment of non-cash compensation should be extended to all types of securities. The same concerns regarding incentives for selling specific mutual fund or insurance products applies to all types of securities. The Proposed Rule should apply to all securities, so they are on a level playing field.

Product-Specific Sales Contests

TFA also agrees that contests favoring specific issuing companies or specific securities should not be allowed. However, TFA does not agree that sales contests specific to certain types of securities should be eliminated. TFA believes it is important to retain the current rule allowing contests and other non-cash compensation to be specific to a type of security, and we do not believe the industry has experienced any abuses that were not in the best interest of the public.

By stating that providing incentives by product type has "the potential to create an incentive to engage in sales conduct unrelated to the best interests of customers", the Proposed Rule strongly implies that in every prospective sale the investor must compare the merits of each type of security (e.g. direct purchase of equity and debt instruments, mutual funds, variable annuities, and variable life insurance products). We believe it is important that the investor compare products within a type of security. And it is important to determine if the type of security is suitable for the investor. But once it has been determined that the type of security is suitable for the investor, it is not appropriate and often impossible to require the member to justify the sale of one type of investment over all others. Often the investor has need for several product types, and this is often a good strategy to diversify an investor's portfolio. But not all registered representatives are qualified to evaluate or sell all securities, i.e. those with a limited Series 6 registration. And, although TFA is a full-service broker-dealer, not all broker-dealers are registered to sell all securities. Therefore, specialization in the sale of one or a few types of securities is common, which precludes their comparison of all types of securities.

Non-Member Contributions to Non-Cash Arrangements

TFA does not agree to the elimination of the current provision that permits non-member life insurance companies that are affiliates of member firms to contribute to non-cash compensation

arrangements between member firms and their associated persons. TFA's affiliated life insurance companies provide non-cash compensation to their insurance producers (who are also TFA registered representatives) that is based on their total sales of all securities products through TFA. TFA's affiliated insurance companies wish to compensate the producers for their variable product sales as well as their fixed product sales, and the insurance companies are willing to give the producers credit not only for sales of non-proprietary variable insurance products but also for sales of all types of securities they sell through TFA. If there is a concern that investors are unaware of this special arrangement, we would recommend adding information about non-cash compensation received from our affiliates in our point of sale disclosure.

By prohibiting non-cash compensation benefits from our affiliated companies, the Proposed Rule would needlessly and unfairly eliminate a significant benefit for our registered representatives at a time when competitive pressures in the industry are reducing their commission income. This is an important and long-standing non-cash benefit for TFA's registered representatives and for the registered representatives of other insurance-affiliated broker-dealers. NASD and the SEC took the position that this was an appropriate form of non-cash compensation in 1997, and there does not appear to be any evidence that this has caused sales activities that are not in the best interest of investors. Therefore, we don't believe there is any justification for the elimination of the current rule allowing non-cash benefits from third parties under the existing restrictions.

Thank you for the opportunity to comment on the Proposed Rule.

Sincerely,

Christopher Shaw
Vice President
Transamerica Financial Advisors, Inc.