AARP

601 E Street, NW
Washington, DC 20049
T 202-434-2277
1-888-OUR-AARP
1-888-687-2277
TTY 1-877-434-7598
www.aarp.org

September 30, 2008

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1500

RE: Regulatory Notice 08-39

I am writing on behalf of AARP to comment on FINRA's proposed rules governing communications about variable insurance products. AARP generally supports the proposed rules, which improve consumer protections for these complex financial products, with one caveat about the information given in weighted-average illustrations.

AARP is a nonprofit, nonpartisan membership organization that helps people 50 and over improve the quality of their lives as they age. AARP has 40 million members and has offices in all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

AARP commends FINRA for updating and clarifying the rules governing member communications with the public about variable insurance products, including variable annuities. According to a recent insurance industry report by LIMRA International, the market for individual variable annuity sales was $184.2 billion in 2007, representing over 71 percent of all individual annuities sales for the year.[1]

AARP is particularly pleased with the clarification of the guidelines on representations about liquidity of variable insurance products, codified at IM-2210-2(c). Deferred variable annuities frequently have long surrender periods and high surrender charges. Investors who fail to understand this could face a substantial threat to their short-term and long-term financial well-being.

AARP is concerned, however, that the revision to the guideline of illustrations on assumed rates of return may be giving consumers less information about the investment. The proposed rule authorizes the illustration to reflect either an arithmetic average of all investment options or a weighted average of investment option expenses. As codified under IM-2210-2(g)(7)(B), the weighted average illustration alternative is required to identify the investment options being used and the amount of investment allocated to each option. Also, if the illustration is used with more than one customer, it must reflect the current actual weighted average held by all investors through the separate account. This would seem to improve the illustration's clarity, for which AARP applauds FINRA. However, Endnote 15 points out that the proposal deletes the requirement that the investor receive a prospectus with the illustration under these circumstances. AARP is

[1] U.S. Individual Annuities Fourth Quarter 2007 Report, LIMRA International, at 1.

concerned that the prospective investor would no longer receive important information contained in the prospectus and strongly recommends that the document be sent.

AARP commends FINRA for its commitment to improving consumer protection in the regulation of variable insurance products. AARP generally supports the proposal and urges its swift adoption; however, AARP urges FINRA to continue requiring members to give investors the prospectus when using a weighted average illustration.

If you have any questions, please contact Mary Wallace at (202) 434-3954 or Ryan Wilson at (202) 434-3918.

Sincerely,

David Certner

David Certner
Legislative Counsel and Director of Legislative Policy