



PACIFIC SELECT DISTRIBUTORS

November 20, 2009

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

Via email: pubcom@finra.org

RE: Comments Regarding FINRA Notice 9-55

Dear Ms. Asquith:

Pacific Select Distributors, Inc. ("PSD") appreciates the opportunity to provide comment on the proposed FINRA Rule 2210. PSD is a FINRA member firm and a subsidiary of Pacific Life Insurance Company ("Pacific Life"). PSD distributes variable insurance products, including variable life and variable annuities, as well as investment company shares issued by Pacific Life and/or its affiliated companies.

Many of changes proposed in FINRA Rule 2210 are positive. A portion of the proposed rule, however, would not benefit consumers. Additionally, the Notice does not address FINRA's plans regarding previously reviewed filings by its Advertising Department should a new rule be adopted.

We offer the following comments regarding the proposal, as well as several recommendations regarding implementation of the proposed rule with respect to material filed in use under the existing rule.

Currently FINRA allows multiple-rate illustrations based on so-called "random" rates that are determined by the firm. Under proposed paragraph (g)(7)(C), any illustration that used multiple rates of return would have to be based on the actual performance of a broad-based securities market index for the period shown by the illustration. "Random-rate" illustrations would no longer be allowed.

Member firms should continue to have the ability to run "random rates" projecting to an overall rate of return. Limiting "multiple rates of return" illustrations to only a "broad-based securities market index" may narrow or misguide a consumer's understanding of the variable universal life insurance products for the following reasons:

1. The consumer cannot buy a broad-based securities market index. Additionally, returns projected may not be "reasonable" for the investment option(s) that the consumer is considering given the market conditions within a particular period.
2. The returns from a broad-based index returns do not include the investment advisory fees and fund operating expenses.
3. Past performance is not an indication of future results. The use of broad-based securities index returns as the sole source for multiple returns puts an overbearing weight of expectation that future results may be extrapolated from past performance. Without the ability to review and address recent market conditions, the broad-based securities index returns could have a tendency to mislead.

PACIFIC SELECT DISTRIBUTORS, INC.

700 Newport Center Drive, Newport Beach, CA 92660-6397, Tel (800) 800-7681, Fax (949) 759-9809

4. An illustration reflects policy years up to the client's age 120, not all broad-based securities index returns will have sufficient historical returns to reflect the duration of the illustration. For example, an individual age 40 would need 80 years of historical data. And younger individuals would need even longer periods.

To summarize, we believe using varying random rates with reasonable returns allows the illustration to reflect an average annual return of the client's expectation. For example, if a client expects to earn an average of 7% over the life of the policy, he can see how yearly volatility averaging out at 7% can affect policy values versus a level return of 7%.

We also ask that if the rule is adopted in its current proposed form, or in a manner that retains some form of new classifications of advertisements (e.g. retail communications, institutional communications and correspondence in the current proposal) that FINRA provide clear direction on how long advertising and other communications filed under the current NASD Rule 2210 can continue to be used. We believe that such material should be "grandfathered" and can continue to be used so long as there is no material change to its contents. That would lessen the burden on firms and avoid otherwise needless filing costs.

Should FINRA intend to require that all material then currently in use ultimately be reviewed under the new rule, we ask that FINRA give careful consideration regarding any such implementation. In doing so, FINRA must consider that many firms will have large amounts of material requiring new filing with FINRA's Advertising Department to comply with any proposed new rules. In addition to the administrative burdens placed on firms, FINRA would also likely face administrative issues itself due to increased filings. Therefore, we ask that the time frame be a minimum of two years from the date the new rule becomes effective that firms can continue to use material filed under existing rules. Additionally, to further smooth the transition from the current rule to any new rule, we ask that after the new rule has both been approved by the SEC and FINRA has announced the effective date of the new rule, that firms have ability to file under either the current rule or the new rule during period between FINRA's announcement and the rule's effective date. Finally we believe that the time period between announcement and implementation should be a minimum of nine months.

Thank you for the opportunity to comment.

Sincerely,

/s/

S. Kendrick Dunn
Assistant Vice President
Pacific Select Distributors, Inc.