

June 29, 2007

Via Electronic E-mail

The Honorable Jack Scott
CA State Senate
State Capitol, Room 2082
Sacramento, CA 95814

RE: SB 573 (Scott) – Oppose Unless Amended

Dear Senator Scott:

The Securities Industry and Financial Markets Association (SIFMA)¹ is writing to express its “oppose unless amended” position to SB 573 (Scott), as amended April 24th.

We applaud you, the bill sponsor, for the substantial attention you have brought to the annuity issue over the last several years. Annuity products - particularly deferred variable annuities – are increasingly popular investment options for persons of all ages. This is due, at least in part, to the tax-deferred savings accumulation and lifetime income stream that these products can provide. Responsible sales practices and respectful and appropriate client treatment are critical both to the investor’s financial well-being and to the well-being of our industry.

As you undoubtedly know, broker-dealers and their registered representatives are already subject to general suitability requirements and “Know Your Customer” requirements under NASD rules. In addition, NASD is currently finalizing a new rule (Rule 2821) which spells out in great detail appropriate deferred variable annuity disclosure, sales practices and supervisory procedures. Furthermore, in California, at least three bills have been enacted since 2003, two of which you sponsored, which provide additional protections to purchasers of annuities. Thus, consumers who believe they have been misled or sold an inappropriate product can bring their claims to any of a number of forums, including the SEC, a designated state regulator, the NASD, and federal and state court. Upon successful demonstration of his or her claim, the consumer will obtain appropriate relief.

We therefore question whether an additional layer of regulation, at least as it relates to broker dealers, is even necessary. If, however, SB 573 is to be adopted at the state level, we respectfully

¹ The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

request that you strike Section (5) (4), which requires that broker-dealers - and perhaps even individual brokers - submit their suitability standards and related consumer questionnaires to the insurer for review and approval. As noted above, broker-dealers are already subject to NASD suitability and sales practice rules with regard to the sale of variable annuity products. To require broker-dealers to submit their suitability standards and consumer questionnaires to each insurer for approval adds little to investor protection while imposing additional time-consuming layers of bureaucracy on broker-dealers. Moreover, because many of the forms and questionnaires are unique to each broker-dealer, we are concerned that the new requirements could result in wide dissemination of firm proprietary information. It is also not clear how broker-dealers would operationally comply with this requirement and who makes the final determination on which forms and questionnaires are suitable.

We very much appreciate the language in 5(e) (located on page 7, lines 9-12) which tries to get at the issue by stating that "compliance with National Association of Securities Dealers Conduct Rules pertaining to suitability shall satisfy the requirements under this section for the recommendation of variable annuities." We, however, are concerned that, while the language creates a safe harbor for broker-dealers, it does not appear to obviate the need for broker-dealers to nonetheless submit their suitability standards and related consumer questionnaires to the insurer for review and approval.

We thank you for your continued work on this issue, and we look forward to working with you to help advance responsible sales practices without unduly restricting or impeding legitimate business activity

If your staff has any questions, please contact myself at 212-720-0611 or our California lobbyist Joanne Bettencourt at 916-329-7935.

Sincerely,

A handwritten signature in black ink that reads "Kim Chamberlain". The signature is fluid and cursive, with the first name "Kim" and last name "Chamberlain" clearly legible.

Kim Chamberlain
Managing Director and Counsel
State Government Affairs

cc: Assemblyman Coto, Chair, Assembly Insurance Committee
Members, Assembly Insurance Committee