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THE Committee OF Annuity Insurers
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Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. S7-13-21; Regulatory Flexibility Agenda – Fall 2021 (the "Agenda")

Dear Ms. Countryman:

On behalf of the Committee of Annuity Insurers (the "CAI"),[1] we are submitting this letter in response to the Fall 2021 Regulatory Flexibility Agenda of the U.S. Securities and Exchange Commission (the "SEC" or "Commission") that was recently released by the Commission (the "Agenda"). At that time, the Commission invited questions and public comments on the agenda and the individual agenda times. We appreciate the opportunity to submit these comments.

The CAI recognizes and appreciates the significant efforts made by the Commission and its Staff to develop the Agenda. With regard to the individual agenda items included in the Agenda, we look forward to providing input on individual initiatives of interest to CAI members in due course as the Commission issues proposals and invites comments.

With regard to the agenda as a whole, we are taking this opportunity to bring to the Commission's attention certain items of significant interest to both the annuity industry and investors that are not included on the Agenda, and we urge the Commission to address these issues in its Spring 2022 Regulatory Flexibility Agenda. The CAI is encouraged by the Commission's recent progress on regulatory and policy issues relating to annuity products, including the adoption in 2020 of the significant registration statement amendments and related rules that now permit the use by life insurance companies of variable annuity summary prospectuses that will provide investors with a layered disclosure framework built on the summary prospectus, similar to what had been available to mutual fund investors for nearly a decade.

We believe that it is critical for the Commission to further advance the progress made with respect to annuity products. In particular, there are two critical items that are not included in the Agenda but that warrant attention at the earliest possible opportunity and inclusion in the Commission's Regulatory Flexibility Agenda for Spring 2022: (1) the development of an appropriate 1933 Act disclosure framework for registered indexed linked annuities; and (2) updating of the Commission's framework for electronic delivery of required documents under the federal securities laws.

[1] The Committee of Annuity Insurers is a coalition of life insurance companies formed in 1981 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of federal policy with respect to securities, regulatory and tax issues affecting annuities. A list of the CAI's member companies is attached. The CAI's current 31 member companies represent approximately 80% of the annuity business in the United States.

Appropriate 1933 Act Disclosure Framework for Registered Index Linked Annuities

The CAI along has strongly advocated for some time that the Commission propose and adopt a 1933 Act registration form utilizing a layered prospectus disclosure framework for Registered Index-linked Annuities ("RILAs"). Given the dramatic growth of RILAs in the marketplace, we urge the Commission to include a proposed rulemaking to adopt such registration form on the Commission's Regulatory Flexibility Agenda for Spring 2022 as a short-term item at the proposed rule stage.

RILAs comprise the fastest growing segment of the annuity industry. However, insurers wanting to offer these retirement savings products, and investors wanting to purchase them, must deal with an overly long prospectus, overloaded with information that is neither relevant nor material to an insurance contract offering. This is because, in the absence of a specified registration form or appropriately scaled disclosure requirements, RILAs ordinarily must be registered on Form S-1, the Commission's general 1933 Act registration form for public offerings. Like other annuity products, however, RILAs are very different from the conventional securities offerings made by public operating companies for which Form S-1 was designed.

Rather, RILAs are insurance products regulated by the states, including robust state insurance solvency protections designed to protect insurance consumers. Purchasers of RILAs have a contractual relationship with the life insurance company and, as such, they are predominantly interested in the ability of the insurer to pay its claims. Form S-1, however, not only requires audited financial statements of the issuer, but other detailed narrative and financial information about the issuer, its operations and its management. The Commission reasonably requires these disclosures for an operating company's initial public offering. However, these disclosures are not material to purchasers of a state regulated long-term insurance contract. In fact, they only serve to detract from the information that is important: how the product works and the claims paying ability of the life insurance company.

The Commission recognized the unique nature of registered insurance product offerings when in 2010 it adopted Rule 12h-7 under the Securities Exchange Act of 1934 (the "1934 Act") exempting life insurance companies issuing 1933 Act registered insurance products from the 1934 Act's periodic reporting requirements. This recognition also calls for action under the 1933 Act.

The CAI strongly encourages the Commission to propose and adopt a 1933 Act registration form utilizing a layered prospectus disclosure framework for RILAs that both provides specific instructions regarding those elements of RILAs, including their risks, that should be disclosed, and also scales back the issuer-related information so that it is aligned with the registration forms that the Commission has adopted for other regulated insurance product offerings, such as Forms N-3, N-4 and N-6.

We respectfully submit that the time is now ripe for the Commission to prioritize this action by adding it to its Regulatory Flexibility Agenda. Since 2017, the CAI, along with others, has been advocating for appropriately tailored disclosure requirements for RILAs. Most recently, bipartisan proposed legislation was introduced in Congress that would direct the Commission to propose and adopt a registration form for RILAs within one year. The CAI stands ready to assist the Commission staff in any way that would assist in replacing the ill-fitting Form S-1 and its general public offering disclosure requirements with tailored disclosure requirements appropriate for this type of offering.

Electronic Delivery of Required Documents under the Federal Securities Laws

Additionally, the CAI urges that the Commission address the outdated framework for the electronic delivery ("e-delivery") of required documents on its Regulatory Flexibility Agenda for Spring 2022 as a short term item. The need to modernize the current approach – developed in the infancy of the Internet - either in the form of a formal rulemaking or the issuance of revised guidance (or both) is of critical importance to issuers, investors and financial intermediaries.

In 1995, over a quarter of a century ago, the Commission established the general requirements for e-delivery of documents required to be delivered under the federal securities laws that still stand today. At that time, household broadband Internet access was in its infancy and the first Apple iPhone was still 12 years away. Since that time, technology has advanced at near-warp speed, including the availability and speed of connecting to the Internet, the broad adoption of computers, email, smartphones, tablets and other technologies by the investing public, changes in investor preference in receiving documents, and the necessity of remote work since the start of the COVID-19 pandemic.

All of these developments demonstrate the undeniable need for the Commission to update its e-delivery framework. The current e-delivery framework amounts to a patchwork of rules for the electronic delivery of different types of documents, including proxy statements, prospectuses, semi-annual reports, and other issuer disclosure documents. This guidance was established by the Commission when the digital age was barely developed.

In October 2020, CAI, the American Council of Life Insurers ("ACLI") and the Insured Retirement Institute ("IRI") submitted a joint letter to the Commission requesting a modernized e-delivery framework that addresses certain specific considerations of particular import and interest to the insurance industry that we urge be taken into account. This joint letter was a follow-up to the whitepaper submitted in September 2020 by the Securities Industry and Financial Markets Association ("SIFMA"), to which ACLI, IRI and the CAI were also signatories. The Investment Company Institute ("IRI") also submitted a letter to the Commission providing meaningful data on e-delivery.

The CAI respectfully renews its request that the Commission consider a framework whereby e-delivery, not paper, is the default for all documents delivered pursuant to the federal securities laws. We therefore ask that you add this to the Regulatory Flexibility Agenda for Spring 2022, and prioritize updates to the Commission's e-delivery framework by building upon the principles identified in the current framework, and working towards a "notice and access" and/or "access equals delivery" framework for required generic and personalized documents through new guidance or rulemaking.

Conclusion

We appreciate this opportunity to comment on the Fall 2021 Regulatory Flexibility Agenda and the Commission's consideration of the regulatory and policy goals that we advocate for inclusion in the Spring 2022 Regulatory Flexibility Agenda. The CAI stands ready to provide the Commission with any information that may further its consideration, and is prepared to meet with Chair Gensler, the Commissioners and the Commission Staff on these initiatives in an effort to ensure they are accorded the high priority we believe they are due. As a significant regulator of annuity products, the Commission can contribute materially to improving investors' access to the unique benefits these products provide while fulfilling its investor protection mission by advancing these regulatory objectives.

We look forward to constructive dialogue on these and other matters facing the Commission.

Sincerely,

THE COMMITTEE OF ANNUITY INSURERS



Stephen E. Roth
Eversheds Sutherland (US) LLP

CC: The Honorable Gary Gensler, Chairman
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
The Honorable Allison Herren Lee, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner
William A. Birdthistle, Director, Division of Investment Management
Renee Jones, Director, Division of Corporation Finance
Haoxiang Zhu, Director, Division of Trading and Markets

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Symetra Financial Corporation
Talcott Resolution
Thrivent
TIAA
USAA Life Insurance Company

The Committee of Annuity Insurers was formed in 1981 to participate in the development of federal policies with respect to annuities. The member companies of the Committee represent approximately 80% of the annuity business in the United States.