



December 3, 2008

Florence E. Harmon, Acting Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

**Re: Rulemaking Petition for Enhanced Disclosure and New Prospectus Delivery
Option for Registered Separate Accounts Funding Variable Annuity
Contracts**

Dear Ms. Harmon:

Pursuant to Rule 192(a) of the Commission's Rules of Practice, NAVA hereby petitions the Commission to propose a new rule and certain rule and form amendments (collectively, "proposed changes") that will:

- (a) enable variable annuity separate accounts registered under the Investment Company Act of 1940, as amended ("1940 Act") and their insurance company depositors to provide investors with key information in a summary prospectus,
- (b) permit a person to satisfy its variable annuity prospectus delivery obligations under Section 5(b)(2) of the Securities Act of 1933, as amended ("Securities Act") by sending or giving the key information directly to investors in the form of a summary prospectus, delivered in paper or by electronic means, and providing the statutory prospectus on an Internet Web site. In addition, investors would be entitled to receive a written or electronic statutory prospectus upon request, and
- (c) eliminate the need to annually deliver updated printed statutory variable annuity prospectuses to existing customers under certain conditions where appropriate.

The text of the proposed changes are set out in Appendix A to this petition. A sample form of summary prospectus is set out in Appendix B to this petition.

I. Petitioner's Interest and Reasons for Seeking the Proposed Changes

NAVA is a not-for-profit organization dedicated to the growth and understanding of annuity and variable life insurance products. NAVA represents all segments of the annuity and variable life industry with over 350 member organizations, including

insurance companies, banks, investment management firms, distribution firms, and industry service providers.

The proposed changes are of substantial interest and importance to NAVA and its member organizations. The variable annuity industry has grown tremendously over the past decade, with total assets nearly doubling to just under \$1.4 trillion.¹ There are approximately 22 million variable annuity contracts in force today, with 1,376 unique products currently being offered by 40 life insurance companies.²

If adopted, the proposed changes would significantly improve the information available to the millions of Americans who rely on variable annuities as an important part of their retirement program. The proposed changes would provide them with key information in a clear, concise, and standardized format that would facilitate and encourage comparison shopping. The proposed changes also would help tremendously to reduce the significant costs and other burdens associated with delivering a printed statutory prospectus. NAVA is seeking the proposed changes, therefore, to advance the interests of the investing public and of its members alike.

II. Overview

The proposed changes follow the same “layered approach” to disclosure (“layered disclosure approach”) that the Commission recently set forth in its proposal for enhanced mutual fund disclosure and a new mutual fund prospectus delivery option (the “Mutual Fund Proposal”).³ Like the Mutual Fund Proposal, the proposed changes would:

- provide variable annuity investors with key information presented clearly and concisely, while enabling them to receive the same amount and type of information that is currently available either online or, upon request, in writing,
- give prominence to key information that variable annuity investors can use in making an informed investment decision, and

¹ Total assets at the end of the first quarter 2008 were \$1.396 trillion. See Press Release, *NAVA Releases First Quarter Variable Annuity Industry Data* (June 16, 2008).

² NAVA 2008 Annuity Fact Book at 97.

³ *Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies*, Securities Act Release No. 8861 (Nov. 21, 2007) [hereinafter *Mutual Fund Proposal*].

- require the use of a standardized plain English format, which should enhance the ability of variable annuity investors to compare different variable annuities available in the marketplace.

In addition, like the Mutual Fund Proposal, the proposed changes would provide that the statutory prospectus delivery obligation imposed by Section 5(b)(2) of the Securities Act would be satisfied by sending or giving a summary prospectus no later than the time of the carrying or delivery of the variable annuity and by providing the statutory prospectus and any other required information on the Internet. The proposed changes also would allow a summary prospectus to support the use of so-called “supplemental sales material” under Section 2(a)(10) of the Securities Act. As a result, variable annuity communications that are accompanied or preceded by a summary prospectus would not be deemed to be prospectuses and would not be subject to the liability provisions of Section 12(a)(2) of the Securities Act, *provided* the summary prospectus is given prior to or at the same time as such material, the summary prospectus is given greater prominence than, and is not bound together with, those materials, the summary prospectus is in compliance with the requirements for such a prospectus, and the statutory prospectus and other information are provided on the Internet.

Finally, the proposed changes would dispense with the need to annually distribute updated printed statutory prospectuses to existing customers, whether or not a summary prospectus is used, *provided* that (a) an electronic version of the updated statutory prospectus is available on the Internet, (b) customers, upon request, receive a copy of the updated statutory prospectus free of charge, (c) there are no material changes (other than changes relating to underlying fee expenses and performance) in the updated statutory prospectus or, if a summary prospectus is used, in the updated summary prospectus, that would otherwise be distributed, and (d) customers receive an updated summary prospectus or, if not available, then an updated statutory prospectus, for each mutual fund investment option corresponding to a subaccount to which they have allocated purchase payments (each such mutual fund, an “underlying fund”).

III. Discussion

NAVA respectfully submits that the widespread use and acceptance of electronic media today make the proposed changes not only feasible, but also much more practical and sensible than the current prospectus delivery regime. In the Mutual Fund Release, the Commission noted that Internet use among adults is at an “all time high,” with approximately three quarters of Americans having access to the Internet.⁴ Internet access among mutual fund and variable annuity investors is even higher. A survey released by the Investment Company Institute in October 2006 showed that 92% of mutual fund

⁴ *Id.* at n.22.

shareholders had Internet access, up from 88% the previous year.⁵ A survey commissioned by NAVA in April 2006 found similar results, with 89% of variable annuity owners reporting Internet access.⁶ One can reasonably surmise that those figures are higher today.

A. Current Prospectus Delivery Regime

Under the current prospectus delivery regime, a statutory prospectus must be delivered on or before the completion of the sale of a variable annuity. An updated statutory prospectus also must be delivered each year to variable annuity investors who make additional contributions or allocations to their variable annuity.⁷ Many insurance companies, in an effort to avoid the cost and administrative burden of tracking which of their customers have made additional contributions or allocations to their variable annuity, annually distribute an updated statutory prospectus to all of their customers. In addition, a statutory prospectus must accompany or precede any use of supplemental sales material describing a variable annuity.

A typical⁸ statutory prospectus for a variable annuity contains an average of 125 pages of printed⁹ disclosure in response to the information requirements of Form N-4, the Commission's registration statement for variable annuity separate accounts organized as unit investment trusts. Form N-4 calls for prospectus disclosure that includes, among other things:

- a definitions section;
- a fee table and example;
- condensed financial information;

⁵ *Ownership of Mutual Funds and Use of the Internet 2006*, Investment Company Institute Research Fundamentals, Vol. 15, No. 2. (Oct. 2006).

⁶ *Internet Access and Variable Annuity Ownership*, survey conducted by Matthew Greenwald & Associates using Synovate's Consumer Opinion Panel, April 2006.

⁷ This result follows from the Commission staff's treatment of the accumulation units offered under a variable annuity as the securities that are registered and the fact that variable annuities, like mutual fund shares, are typically offered on a continuous basis. The Commission staff has issued conditional no-action relief from this requirement for variable contracts that are no longer sold. See *Metropolitan Life Insurance Company et al.*, SEC Staff No-Action Letter (Apr. 26, 1995) [hereinafter *Metropolitan Life Letter*].

⁸ Based on a sample review of variable annuity prospectuses issued by the top 10 variable annuity issuers, as reported in the NAVA 2008 Annuity Fact Book.

⁹ Unless a customer has consented in advance to receive the statutory prospectus in electronic format, these prospectuses must be delivered in print. This rulemaking petition contemplates that a customer also could consent to receive a summary prospectus in electronic format in accordance with current Commission guidance.

- general information about the insurance company depositor, the separate account, and the investment options offered;
- more detailed information about fees, charges, and deductions; and
- information on how to purchase and redeem.

Form N-4 also calls for prospectus disclosure of the general provisions of the variable annuity, including contract rights, such as the right to cancel, voting rights, and the right of the insurance company to make changes, as well as contract features, such as automatic rebalancing, allocation, and withdrawal programs; detailed information about annuity income options and optional rider benefits; a discussion of death benefits; distribution and compensation information; and a discussion of tax consequences.

As a result of the foregoing, variable annuity investors regularly receive voluminous statutory prospectuses that contain potentially overwhelming amounts of printed information. The present format of the prospectus mandated by Form N-4 does not provide an investor with the means to quickly access key information and readily compare the key features of different variable annuities offered in the marketplace.

B. Proposed Changes

Like the Mutual Fund Proposal, the proposed changes would provide variable annuity investors with the ability to readily access and quickly compare key information important to an informed investment decision. The proposed changes would bring key information to the attention of variable annuity investors in a clear, concise, and standardized format that is user-friendly.

The proposed changes also would harness current technology to enhance the provision of information to variable annuity investors. An investor that receives a summary prospectus would be able to immediately review the full statutory prospectus, as well as the related statement of additional information (“SAI”) online. In addition, the proposed changes would enable investors desiring additional information or specific information within the statutory prospectus to quickly and easily obtain that information online without having to read through lengthy unrelated information. This approach also would enable insurance companies to more rapidly disseminate information about their variable annuity products to their investors through the Internet.

The proposed changes would enable investors to request the statutory prospectus in paper or by email, though NAVA believes that few investors will opt to request the statutory prospectus. NAVA’s research concluded that investors generally do not view the statutory prospectus to be as useful a disclosure document as the much shorter VA Profile described in Section IV on page 15, below. Further, it is commonly understood that statutory prospectuses, whether for mutual funds or variable annuities, are not widely read. By using a layered disclosure approach, the proposed change will enable a variable annuity investor to obtain disclosure tailored to his or her own individual needs.

In addition, the proposed changes would eliminate the need to annually clutter existing investors' mailboxes with printed updated statutory variable annuity prospectuses. Because the terms and features of a variable annuity are set out in a written contract between the insurer and the owner, prospectus information about the product itself generally changes very little if at all from year to year. Under the proposed changes, existing investors, however, would receive updated statutory variable annuity prospectuses or, if a summary prospectus is used, an updated summary prospectuses, in the event of material changes to the variable annuity. Existing investors also would receive underlying fund summary prospectuses, or if not available, then statutory prospectuses for the underlying funds.

1) Form N-4 Amendments

Like the Mutual Fund Proposal, the proposed changes would require the statutory prospectus filed in a Form N-4 registration statement to include a summary section at the front of the prospectus consisting of key information presented in plain English in a standardized order. The proposed changes would build upon the "at-a-glance," "summary," or "overview" sections currently found in many variable annuity statutory prospectuses. The summary section would form the basis for the summary prospectus and would be required regardless of whether the insurance company depositor chooses to rely on the summary prospectus and the new prospectus delivery option being proposed.

The summary section would consist of the following eight items of key information about the variable annuity contract:

- (1) introductory information, including free look rights,
- (2) fees and expenses,
- (3) annuity benefits,
- (4) optional rider benefits,
- (5) risks, conditions, and limitations,
- (6) tax information,
- (7) purchase and sale information, and
- (8) information about broker compensation and conflicts.

These eight items of key information would appear in sequential order at the front of the prospectus immediately after the currently required cover page and definitions section.

(a) Introductory Information

The introduction would include general information about the type of contract, including whether it is a single premium or flexible premium, or immediate or deferred variable annuity contract. The introduction also would alert investors to their so-called "free

look” rights under state insurance laws, which enable them to examine their variable annuity contracts and return them during the free look period for a full refund.

If the summary is used as a summary prospectus, the introduction would provide contact information, including a toll-free telephone number and an email address, which investors could use to request a statutory prospectus and other information. In addition, the introduction would include a website address where an investor could obtain an online copy of the statutory prospectus and other information about the variable annuity contract.

The introduction would contain a statement informing the investor that a variable annuity may be appropriate to meet retirement income and long-term financial objectives, but is not meant to be used to meet short-term financial goals. The introduction also would inform investors that limitations, such as surrender charges, may apply and suggest that investors have sufficient liquid assets to meet short-term needs. In addition, the introduction would include disclosure suggesting the investor consider the variable annuity’s costs as well as its benefits.

(b) Fees and Expenses

The summary section would include fee and expense information similar to what is currently required by Item 3 of N-4. This section would contain separate tables describing: (1) contract transaction expenses, such as sales charges, withdrawal charges, and transfer charges; (2) current and maximum fees deducted on each contract anniversary and at surrender; (3) current and maximum separate account charges in the aggregate; (4) current and maximum charges for optional living and death benefits; and (5) minimum and maximum fund operating expenses in the aggregate, both before and after waiver and/or reimbursement of expenses.

Notes following the tables would provide additional explanatory information about the fees and charges, such as how a surrender or withdrawal charge applies, when a contract maintenance charge applies, how an optional rider charge is assessed and for how long, what separate account charges are included in the table and what they pay for. The notes also would describe other charges that might apply, including redemption fees assessed by the underlying funds, and premium and other taxes that may apply.

(c) Annuity Benefits

The summary section would include a brief description of the benefits of the variable annuity. This section would briefly describe the death and income benefit features, the number of investment choices, any fixed account options that are available, and certain other benefits, such as surrender charge waivers in the event of unemployment, nursing care, or terminal illness for the owner or spouse, systematic payout programs, and the like.

(d) **Optional Benefits**

This part of the summary section would briefly describe each optional guaranteed death and living benefit available under the variable annuity contract, such as any guaranteed minimum death benefit, guaranteed minimum accumulation benefit, enhanced earnings benefit, guaranteed minimum income benefit, guaranteed minimum withdrawal benefit, or guaranteed lifetime withdrawal benefit.

(e) **Risks, Conditions, and Limitations**

This part of the summary section would briefly describe potential risks associated with an investment in the variable annuity, such as investment market risk and potential charges and penalties for early withdrawals. For products sold to tax-qualified plans, it also would alert investors to the absence of any additional tax benefit offered by the variable annuity. In addition, this section would explain any conditions or limitations associated with the variable annuity.

(f) **Tax Information**

The summary section would include a brief summary of key information regarding the tax aspects of a variable annuity investment, including tax deferral, taxation upon distribution, ordinary income treatment, tax-free exchanges, and the 10% tax penalty for withdrawals made before age 59 ½. This section also would alert investors to the imposition of state premium taxes. In addition, this section would remind investors through tax-qualified plans that no additional tax deferral results from an investment in a variable annuity.

(g) **Purchase and Sale Information**

This part of the summary section would provide concise information on how to purchase and redeem a variable annuity, including information on any exchange privileges.

(h) **Information about Broker Compensation and Conflicts**

Finally, the summary section would disclose information about payments made to financial intermediaries for selling the variable annuity contract, as well as information about payments or revenue sharing arrangements that may give rise to potential conflicts of interests. The disclosure would direct investors to their sales person or the financial intermediary's Web site for further information.

2) New Rule 499¹⁰

The proposed changes include a new Rule 499, entitled “Summary Prospectuses for Variable Annuity Contracts Issued through Separate Accounts Organized as Unit Investment Trusts” (“Rule 499”). Rule 499 would set out the general requirements for the summary prospectus, as follows:

(a) Cover Page of Summary Prospectus

Rule 499 would require information for the cover page of the summary prospectus similar to what proposed Rule 498 under the Mutual Fund Proposal would require. The cover page would include a statement identifying the variable annuity contract and separate account to which the summary prospectus relates. It also would include a statement identifying the document as a “Summary Prospectus” and the approximate date of the summary prospectus’s first use.

In addition, the cover page would include a legend suggesting that the reader review the full statutory prospectus, providing the reader with the Web address where the reader can obtain the full statutory prospectus and other information, and providing contact information, including both a toll-free number and an email address that the reader can use to request the full statutory prospectus and other information about the variable annuity contract free of charge.

Like proposed Rule 498 under the Mutual Fund Proposal, Rule 499 would require that the Web address lead investors directly to the statutory prospectus and other materials required by the Rule to be accessible. Rule 499 also would require that the legend clearly identify any document from which information is incorporated in the summary prospectus, including the date of the document. If the document is not a statutory prospectus, the legend would include a statement explaining that the incorporated information may be obtained, free of charge, in the same manner as the statutory prospectus.

(b) Contents of Summary Prospectus

Rule 499 would permit the summary prospectus to describe only one variable annuity.¹¹ Rule 499 would require the summary prospectus to include the revised summary information section required by amended Form N-4 described above in the order required

¹⁰ Because the Mutual Fund Proposal would affect the numbering of certain rules that are also the subject of this petition, and because the Commission has not yet acted upon the Mutual Fund Proposal, for convenience of reference and to facilitate the Commission’s consideration of the petition, the proposed changes assume the effectiveness of the changes set out in the Mutual Fund Proposal.

¹¹ Group or individual, or single or flexible premium versions of the same Variable Annuity Contract would count as a single Contract.

thereby. Rule 499 would not permit the omission of information nor would it permit the inclusion of other information not expressly permitted by the Rule. Unlike the Mutual Fund Proposal, Rule 499 would not contain a quarterly updating requirement for any information contained in the variable annuity summary because there is no current Form N-4 disclosure requirement similar to the performance or portfolio holdings disclosure currently in Form N-1A.¹²

(c) Incorporation by Reference

Like the Mutual Fund Proposal, Rule 499 would set out the exclusive provisions for the incorporation by reference of information into the summary prospectus. Like proposed Rule 498, it would provide that information incorporated by reference into the summary prospectus need not be sent or given with the summary prospectus. In addition, Rule 499, like proposed Rule 498, would permit but not require the incorporation by reference into the summary prospectus of any or all of the information contained in the statutory prospectus and SAI for the variable annuity contract, as well as any information from the most recent periodic report required by Rule 30e-2.

Also like the Mutual Fund Proposal, Rule 499 would condition any incorporation by reference on the inclusion of the legend described in Section III.B.2(a) above on page 9, and the availability of the statutory prospectus as described in Section III.B.2(h) below on page 12. Rule 499 would not permit a summary prospectus to incorporate by reference information required to be included in the summary prospectus, and any information incorporated by reference into the summary prospectus would be incorporated by reference to a specific document that contains the information, not a document that incorporates such information by reference.

(d) Rule 159

Like the Mutual Fund Proposal, Rule 499 would provide that for purposes of Rule 159 under the Securities Act, information would be deemed to be conveyed to a person not later than the time that a summary prospectus is received by the person if the information is incorporated by reference into the summary prospectus in accordance with Rule 499. The requirements of Rule 499, like those of proposed Rule 498, are designed so that the facts and circumstances surrounding receipt by a person of a summary prospectus will result in the effective conveyance to that person of any information incorporated by reference into the summary prospectus. These facts and circumstances include actual receipt of the summary prospectus, incorporation by reference of information into the summary prospectus, clear disclosure of how the incorporated information may be obtained free of charge, and continuous Internet availability of the incorporated

¹² Form N-4 calls for certain condensed financial information, which consists basically of historical accumulation unit values. This information does not constitute performance information of the type called for by Form N-1A nor is it the type of key information that should be included in a summary prospectus.

information in formats that permit permanent retention, that are convenient for reading online and in paper, and that meet the document linking requirements of the Rule.¹³

(e) Section 5(b)(1)

Like proposed Rule 498, Rule 499 would provide that a summary prospectus meeting the content requirements of the Rule would be deemed to be a prospectus that is authorized under Section 10(b) of the Securities Act and Section 24(g) of the 1940 Act for the purposes of Section 5(b)(1) of the Securities Act. Like proposed Rule 498, Rule 499 would not require the Rule's other requirements to be satisfied as condition to using a summary prospectus to make offers of variable annuities. Thus, a variable annuity summary prospectus meeting the content requirements of Rule 499 could be used to make offers under Section 5(b)(1) regardless of whether the summary prospectus were to be used to satisfy the prospectus delivery obligations under Section 5(b)(2) of the Securities Act. The latter, as discussed below, would require that the Rule's other requirements, including requirements regarding the accessibility of other information, be satisfied.

(f) Section 5(b)(2)

Like proposed rule 498, Rule 499 would permit the obligation under Section 5(b)(2) to have a statutory prospectus precede or accompany the carrying or delivery of a variable annuity security to be satisfied by the sending or giving of a summary prospectus, subject to four conditions. First, the summary prospectus must be sent or given no later than the time of the carrying or delivery of the variable annuity security and, if any other materials accompany the summary prospectus, the summary prospectus must be given greater prominence than those materials and may not be bound together with such materials. Second, the summary prospectus that is sent or given must satisfy Rule 499's requirements at the time of the carrying or delivery of the variable annuity security. Third, the conditions of Rule 499 requiring the Internet availability of the statutory prospectus and other information must be satisfied. Finally, a statutory prospectus must be sent upon request within three business days of receipt of the request. As with proposed rule 498, failure to send the requested statutory prospectus would result in a violation of Rule 499, but not a violation of Section 5(b)(2).

In addition, Rule 499 would dispense with the need to annually distribute updated printed statutory prospectuses to existing customers, whether or not a summary prospectus is used, *provided* that (i) an electronic version of the updated statutory prospectus is available on the Internet, (ii) customers, upon request, receive a copy of the updated statutory prospectus free of charge, (iii) there are no material changes (other than changes relating to underlying fee expenses and performance) in the updated statutory prospectus or, if a summary prospectus is used, in the updated summary prospectus, that would otherwise be distributed, and (iv) customers receive an updated summary prospectus or, if

¹³ Document linking requirements are discussed on page 13.

not available, then an updated statutory prospectus, for each underlying fund corresponding to the subaccounts to which they have allocated purchase payments. This aspect of the proposed changes differs from the Mutual Fund Proposal, because, unlike a mutual fund statutory prospectus or summary prospectus, a variable annuity prospectus typically does not have items of disclosure that significantly change from year to year, other than information relating to underlying fund fees and performance. This result follows from the fact that the fees and charges under, as well as other features of, a variable annuity are fixed in a written contract and do not vary from year to year. Under these circumstances, there would be very little point in annually delivering an updated printed statutory or summary prospectus that largely contains the same information provided in the prior year or years. In addition, with respect to disclosure relating to underlying fund fees and expenses and performance, the proposed conditions would ensure that variable annuity owners receive underlying fund information to update them on these changes.¹⁴

(g) Supplemental Sales Literature

Like proposed Rule 498, Rule 499 would allow a summary prospectus to satisfy the statutory prospectus predicate required under Section 2(a)(10) to facilitate the use of supplemental sales literature. Specifically, Rule 499 would provide that a communication relating to an offering registered on Form N-4 that is sent or given after the effective date of the registration statement shall not be deemed a “prospectus” under Section 2(a)(10) of the Securities Act if it is proved that prior to or at the same time with the communication a summary prospectus meeting the requirements of Rule 499 was sent or given to the person to whom the communication was made. A summary prospectus used for this purpose would have to meet the same requirements of Rule 499 that would apply when a summary prospectus is being used to satisfy the statutory prospectus delivery obligations under Section 5(b)(2).

(h) Availability of Statutory Prospectus and Other Information

Like proposed Rule 498, Rule 499 would permit a separate account that decides to rely on the Rule to meet its statutory prospectus delivery obligations by providing the statutory prospectus on the Internet, together with other information, as follows:

- (1) the summary prospectus, statutory prospectus, SAI, and most recent periodic Rule 30e-2 reports would be required to be accessible, free of charge, at the Web site address specified on the cover page of the summary prospectus.

¹⁴ The proposed conditions are based on the conditions set out in the Commission staff’s long-standing no-action letters that allow insurance companies to not annually update their variable annuity registration statements and not distribute annually updated statutory prospectuses. See *Metropolitan Life Letter*, *supra* note 7. Rule 499 omits certain of these conditions, such as those requiring the delivery of information, such as proxies, confirmations, and periodic reports, or the preparation of audited financial statements, all of which, as a matter of law or regulation, would be required to be performed regardless.

(2) these documents would be required to be accessible on or before the time the summary prospectus is given or sent and the current versions of the documents must remain on the Web site for at least 90 days after (a) the date the variable annuity security is carried or delivered if the summary prospectus is used to satisfy a statutory prospectus delivery obligation, or (b) the date the supplemental sales literature is sent or given where the summary prospectus is used to support such supplemental sales literature.

(3) the information required on the Internet must be presented in a format that: (a) is convenient for both reading online and printing on paper, (b) permits readers to move directly back and forth between the table of contents in the statutory prospectus or SAI and each section referenced in the document's table of contents, and (c) permits readers to move directly back and forth between each section of the summary prospectus and (i) any section of the statutory prospectus and SAI that provides additional detail concerning that section of the summary prospectus, or (ii) tables of contents in the statutory prospectus and SAI that prominently display the sections within those documents that provide additional detail concerning information contained in the summary prospectus (collectively, the "document linking requirements").

(4) persons accessing the Web site must be able to permanently retain, through downloading or otherwise, free of charge, an electronic version of the summary prospectus, statutory prospectus, SAI, and periodic reports in a format or formats that meet the requirements described in paragraph 3(a) and (b) above.

Rule 499 would provide, like proposed Rule 498, that the foregoing requirements would be deemed to be met notwithstanding that the materials are not available for a time in the manner required, provided that the separate account has reasonable procedures in place to ensure that the specified materials are available in the manner required, and the separate account takes prompt action to ensure that the specified documents become available in the manner required as soon as practicable following the earlier of the time at which it knows or reasonably should have known that the documents are not available in the manner required.

Finally, if a summary prospectus is relied upon to satisfy statutory prospectus obligations under Section 5(b)(2) or to support supplemental sales literature under Section 2(a)(10), Rule 499 like proposed Rule 498 would require the separate account or the distributor for the variable annuity to send, at no cost to the requestor, by first-class mail or other reasonably prompt means, a printed or electronic copy of the statutory prospectus, SAI, and Rule 30e-2 periodic reports to any person requesting such a copy within three (3) business days after receiving a request for a paper or electronic copy, as the case may be. As noted above, Rule 499 would provide that compliance with this delivery requirement would not be a condition to the ability to rely on the Rule to satisfy statutory prospectus obligations under Section 5(b)(2) or to support supplemental sales literature under

Section 2(a)(10), and non-compliance with the delivery requirements would not negate the ability to rely on the Rule.

(i) Updating Requirements

Rule 499 would not contain quarterly updating requirements of the type required by proposed Rule 498. Form N-4 prospectuses do not currently provide risk/return data or portfolio holdings of the type required by Form N-1A. Like proposed Rule 498, Rule 499 would provide that a summary prospectus that satisfies the requirements of the Rule at the time it is sent or given shall be deemed to continue to satisfy those requirements until the earlier of the date on which (1) the information is required to be updated for any purpose; or (2) the separate account is required to file an annual updating amendment to its registration statement to update its statutory prospectus in accordance with Section 10(a)(3) of the Securities Act.

3) Technical and Conforming Amendments

a) Rule 159A

If the technical and conforming amendments in the Mutual Fund Proposal are adopted, to accommodate the proposed changes, Rule 159A, as amended by the Mutual Fund Proposal, would be further amended by revising the reference to “rule 498” to “rules 498 and 499.”

b) Rule 482 Amendments

If the technical and conforming amendments in the Mutual Fund Proposal are adopted, to accommodate the proposed changes, Rule 482(a), as amended by the Mutual Fund Proposal, would be further amended by revising the reference to “§230.498(d) or to a summary prospectus under §230.498” to “§230.498(d) or §230.499(d) or to a summary prospectus under §230.498 or §230.499.” No further change to Rule 482(c) regarding the restriction on the use of applications would be necessary.

c) Rule 497 Amendments

If the technical and conforming amendments in the Mutual Fund Proposal are adopted, to accommodate the proposed changes, Rule 497(k), as amended by the Mutual Fund Proposal, would be further amended by replacing “§230.498” with “§230.498 and §230.499” in the two places it appears.

C. Statutory Authority

The Commission has the authority to adopt the proposed amendments to Form N-4 pursuant to authority set forth in Sections 5, 6, 7, 10, and 19(a) of the Securities Act¹⁵ and Sections 8, 24(a), 24(g), 30, and 38 of the Investment Company Act.¹⁶ The Commission has authority to adopt new Rule 499 under the Securities Act and the technical and conforming changes described in the proposed changes pursuant to authority set forth in Sections 5, 6, 7, 10, 19, and 28 of the Securities Act¹⁷ and Sections 8, 24(a), 24(g), 30, and 38 of the Investment Company Act.¹⁸

IV. Grounds for Proposed Changes

A. The Proposed Changes Are Appropriate and Timely

NAVA is petitioning the Commission at this time because it believes that the proposed changes are ripe for consideration and adoption.

The Commission and its staff have had nearly a quarter century of experience with the variable annuity prospectus required by Form N-4.¹⁹ In addition, NAVA and the Commission staff first began serious efforts at prospectus simplification and streamlined disclosure of key information over a dozen years ago. One result of these efforts was the Commission staff's issuance to NAVA of a no-action letter permitting the use of a variable annuity "profile" document containing streamlined disclosure of key information ("VA Profile").²⁰

Since the adoption of Form N-4 in 1985 and the development of the VA Profile in 1996, considerable advancements in technology have occurred. These advances in technology served as the basis for sweeping reforms that the Commission adopted in 2005 to modernize many aspects of communications in the securities offering process.²¹ At that time, in explaining why investment companies were excluded from those reforms, the Commission expressed the view that "it would be more appropriate to consider

¹⁵ 15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a).

¹⁶ 15 U.S.C. 80a-8, 80a-24(a), 80a-24(g), 80a-29, and 80a-37.

¹⁷ 15 U.S.C. 77e, 77f, 77g, 77j, 77s, and 77z-3.

¹⁸ *Id.*, *supra*, note 15.

¹⁹ *Registration Forms for Insurance Company Separate Accounts That Offer Variable Annuity Contracts*, Securities Act Release No. 6588 (June 14, 1985).

²⁰ *National Association for Variable Annuities*, SEC Staff No-Action Letter (June 4, 1996).

²¹ *Securities Offering Reform*, Securities Act Release No. 8591 (July 19, 2005).

investment company issues in the context of a broader reconsideration of” the separate framework governing investment company communications with investors.²²

Only two short years later, the Commission proposed a reconsideration of that separate framework in 2007, choosing first to focus on mutual funds.²³ The Commission’s Mutual Fund Proposal, which serves as a predicate for the proposed changes described in this petition, proposes streamlined disclosure largely based on the mutual fund “profile” document that the Commission prescribed in 1998²⁴ following a brief pilot program. The mutual fund profile, which has not been widely adopted by the fund industry, is similar in concept to the VA Profile that preceded it.

Although the Commission focused first on the mutual fund industry, the variable annuity industry has been much more keenly interested in the use of short summary documents to satisfy their prospectus delivery obligations. In 2000, for example, then Director of the Division of Investment Management Paul Roye noted that while some in the variable annuity industry had suggested the use of a short summary of material changes as an annual updating document for underlying funds, “we explored this idea with the broader fund industry and, frankly, they indicated that they would be unlikely to use such an updating document. ***We are, however, continuing to explore whether the profile could serve as an annual updating document for funds, which is another idea that some in the variable annuity industry have suggested.*** This could be a more effective way of communicating information to shareholders than delivering an entire new statutory prospectus and could result in significant savings to funds and their shareholders.”²⁵

In light of the foregoing, NAVA strongly believes that the proposed changes are appropriate and timely.

B. The Proposed Changes Further the Public Interest

NAVA's research in connection with its VA Profile initiative supports the conclusion that the proposed changes would further the public interest. At the time, NAVA retained an

²² *Id.* at 55.

²³ See *Mutual Fund Proposal*, *supra*, note ____.

²⁴ *New Disclosure Option for Open-End Management Investment Companies*, Securities Act Release No. 7513 (Mar. 13, 1998) (adopting Rule 498).

²⁵ *The Changing Landscape of Variable Annuities*, P. Roye, Director, SEC Division of Investment Management, Before the National Association for Variable Annuities Regulatory Affairs Conference (June 5, 2000) (emphasis added).

independent market research firm, Surveys & Forecasts, to conduct a study to determine whether the VA Profile made it easier for investors to focus on the key issues they need to address before investing, and whether the profile provides the type of information that investors look for when purchasing a variable annuity. NAVA's research confirmed that variable annuity purchasers have a strong preference for summary information about a variable annuity contract in a standardized format. NAVA's research also confirmed that different variable annuity purchasers prefer different amounts of information before making an investment decision. In general, focus groups found the VA Profile to be a useful, concise disclosure document that was easy to read and understand and useful for making investment decisions. They generally found that it contained the right amount of information. These findings suggest that a number of investors who indicated they preferred a short, concise disclosure document would read a VA Profile where they might not read a full statutory prospectus.

Like the VA Profile, the proposed changes would not only meet the desire of investors for simpler more concise disclosure, but also allow investors to tailor the amount of information they receive to their desired level. The layered disclosure approach of the proposed changes, therefore, would improve the overall mix of information available to investors. In addition to receiving a summary prospectus, investors would have the option of accessing an electronic statutory prospectus or requesting a printed one. The electronic statutory prospectus would enable the investor, through hyperlinks, to move quickly to specific information of interest without having to wade through lengthy unrelated information. Given the length of the average variable annuity prospectus as noted above, this feature makes the information far more accessible than a printed prospectus. A summary prospectus also would enable an investor to narrow the selection of different variable annuity contracts being offered.

The public interest case for adopting a layered disclosure approach for variable annuities is arguably stronger than it is for mutual funds or other types of securities due to the unique fact that every variable annuity sale results in the delivery of a printed contract that spells out the rights and obligations of the contract owner. Thus, in addition to the summary prospectus, a contract owner would receive a copy of a contract, which would include specific "data pages" containing information unique to that owner. This additional document provides another layer of information that variable annuity purchasers can access to the extent desired. Furthermore, unlike mutual funds and other types of securities, a variable annuity comes with the right to cancel it without penalty on or before the expiration of the so-called "free look" period. A typical free look period gives the investor 20 days to decide whether to keep the variable annuity or return it for a full refund. The free look period would provide investors with additional time with which to take advantage of the layered disclosure approach, i.e., time to request and consider additional information and time to access the statutory prospectus and other information online, without penalty. Mutual funds and other securities do not afford investors this opportunity.

C. The Proposed Changes Are Susceptible to Wide Adoption

NAVA believes that the proposed changes will be widely adopted by the variable annuity industry. Unlike the Mutual Fund Proposal, which would require quarterly updating of performance and portfolio holdings information, the proposed changes contain no such requirement because no such information currently is required to be provided in a variable annuity prospectus. Although Form N-4 requires the inclusion of ten years of accumulation unit values, given the long-term nature of a variable annuity contract, NAVA respectfully submits that this information is not key to an investment decision and its inclusion would impede readability and comprehension. In this regard, we note that in 1996, the Commission staff granted no-action relief authorizing the relegation of this information to an appendix to the statutory prospectus based on similar concerns regarding readability.²⁶ In addition, the performance of the underlying funds will appear in the summary or statutory prospectuses for the underlying funds delivered in connection with the sale of units of the corresponding variable annuity subaccount.

NAVA also believes the proposed changes are more likely to be susceptible to wide adoption because of the tremendous potential cost savings that would result if the proposed changes are adopted. NAVA estimates these cost savings, including the costs of delivering annual updates of the statutory prospectus, to be in the tens of millions of dollars each year, which would provide significant incentive for life insurance companies to pursue the summary prospectus disclosure option.

D. The Proposed Changes Are Consistent with the Protection of Investors

NAVA respectfully submits that the proposed changes are consistent with the protection of investors. The summary prospectus contemplated by the proposed changes would bring key information to the attention of purchasers, who could then choose the amount and format of the information they want before making an investment decision. A purchaser comfortable with the level of information contained in the summary prospectus could purchase a variable annuity based on that information. A purchaser who prefers more information before purchasing a variable annuity contract could request the variable annuity prospectus and other information about the life insurer and the variable annuity contract. The proposed changes would result in no diminution of the information available to a variable annuity purchaser. To the contrary, it would, as noted above, improve the overall mix of information available.

E. Conclusion

For the reasons discussed above, NAVA petitions the Commission to adopt the proposed changes, substantially in the form set forth in Appendix A hereto.

²⁶ See *Cova Financial Services Life*, SEC Staff No-Action Letter (Apr. 15, 1996).

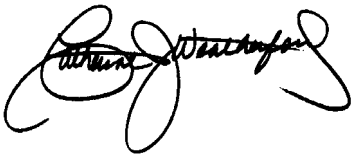
Francis E. Harmon, Acting Secretary

December 3, 2008

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If you have any question regarding this petition or would like additional information, please contact me at (703) 707-8830, extension 16, or Michael DeGeorge, General Counsel, at extension 20.

Sincerely,

A handwritten signature in black ink, appearing to read "Cathy Weatherford". The signature is fluid and cursive, with a large initial "C" and a long, sweeping tail.

Cathy Weatherford
President & CEO

APPENDIX A

Proposed Rule 499

§230.499 Summary Prospectuses for Unit Investment Trusts Issuing Variable Annuity Contracts.

(a) Definitions. For purposes of this section:

(1) Depositor shall have the same meaning as given to the term in General Instruction D to Form N-4.

(2) Separate Account means the registrant that is the subject of an effective registration statement on Form N-4 (§§239.15A and 274.11A of this chapter) and that has a current prospectus that satisfies the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)).

(3) Statement of Additional Information means the statement of additional information required by Part B of Form N-4.

(4) Statutory Prospectus means a prospectus that satisfies the requirements of section 10(a) of the Act and that describes a Variable Annuity Contract that is the subject of a registration statement on Form N-4.

(5) Summary Prospectus means the summary prospectus for a Variable Annuity Contract described in paragraph (b) of this section.

(6) Variable Annuity Contract shall have the same meaning as given to the term in General Instruction D to Form N-4.

(b) General Requirements for Summary Prospectus. This paragraph describes the requirements for a Summary Prospectus. A Summary Prospectus that complies with this paragraph (b) will be deemed to be a prospectus that is authorized under section 10(b) of the Act (15 U.S.C. 77j(b)) and section 24(g) of the Investment Company Act (15 U.S.C. 80a-24(g)) for the purposes of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

(1) Cover page or beginning of Summary Prospectus. Include on the cover page of the Summary Prospectus or at the beginning of the Summary Prospectus:

(i) The Separate Account's name and the name of the Variable Annuity Contract to which the Summary Prospectus relates.

(ii) A statement identifying the document as a "Summary Prospectus."

(iii) The approximate date of the Summary Prospectus's first use.

(iv) The following legend:

Before you invest, you may want to review the Variable Annuity Contract prospectus, which contains more information about the Variable Annuity Contract and its risks. You can find the Variable Annuity Contract prospectus and other information about the Variable Annuity Contract online at [_____]. You can also get this information at no cost by calling [_____] or by sending an e-mail request to [_____].

(A) The legend must provide an Internet address, other than the address of the Commission's electronic filing system; a toll free (or collect) telephone number; and an e-mail address that investors can use to obtain the Statutory Prospectus and other information.

The Internet Web site address must be specific enough to lead investors directly to the Statutory Prospectus and other materials that are required to be accessible under paragraph (f)(1) of this section, rather than to the home page or other section of the Web site of the Depositor on which the materials are posted. The Web site could be a central site with prominent links to each document. The legend may indicate, if applicable, that the Statutory Prospectus and other information are available from a financial intermediary (such as a broker-dealer or bank) through which shares of the Separate Account may be purchased or sold.

(B) If any information is incorporated by reference into the Summary Prospectus, the legend must clearly identify the document from which the information is incorporated, including the date of the document; and, if information is incorporated from a source other than the Statutory Prospectus, the legend must explain that the incorporated information may be obtained, free of charge, in the same manner as the Statutory Prospectus. If applicable, the legend may include a statement to the effect that the Summary Prospectus is intended for use in connection with a defined contribution plan that meets the requirements for qualification under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)), or a tax-deferred arrangement under section 403(b) or 457 of the Internal Revenue Code (26 U.S.C. 403(b) and 457), as applicable, and is not intended for use by other investors.

(2) Contents of the Summary Prospectus. Except as otherwise provided in this paragraph (b), provide the information required or permitted by Item 3 of Form N-4, and only that information, in the order required by the form.

(3) Incorporation by Reference. Except as provided by paragraph (b)(3)(i) of this section, information may not be incorporated by reference into a Summary

Prospectus. Information that is incorporated by reference into a Summary Prospectus in accordance with paragraph (b)(3)(i) of this section need not be sent or given with the Summary Prospectus.

(i) A Separate Account may incorporate by reference into a Summary Prospectus any or all of the information contained in the Statutory Prospectus and Statement of Additional Information for the Variable Annuity Contract, and any information from the most recent report to the Separate Account's shareholders under § 270.30e-2, provided that:

(A) The conditions of paragraphs (b)(1)(iv)(B) and (f) of this section are met;

(B) A Separate Account may not incorporate by reference into a Summary Prospectus information that paragraphs (b)(1) and (2) of this section require to be included in the Summary Prospectus; and

(C) Information that is permitted to be incorporated by reference into the Summary Prospectus may be incorporated by reference into the Summary Prospectus only by reference to the specific document that contains the information, not by reference to another document that incorporates such information by reference.

(ii) For purposes of § 230.159, information is conveyed to a person not later than the time that a Summary Prospectus is received by the person if the information is incorporated by reference into the Summary Prospectus in accordance with paragraph (b)(3)(i) of this section.

(4) Multiple Variable Annuity Contracts. A Summary Prospectus may describe only one Variable Annuity Contract. Group or individual, or single premium or flexible premium versions of the same Variable Annuity Contract shall count as one.

(c) Transfer of the Security. Any obligation under section 5(b)(2) of the Act (15 U.S.C. 77e(b)(2)) to have a Statutory Prospectus precede or accompany the carrying or delivery of a Variable Annuity Contract security in an offering registered on Form N-4 is satisfied if:

(1) A Summary Prospectus is sent or given no later than the time of the carrying or delivery of the Separate Account security; and, if any other materials accompany the Summary Prospectus, the Summary Prospectus is given greater prominence than those materials and is not bound together with any of those materials;

(2) The Summary Prospectus that is sent or given satisfies the requirements of paragraph (b) of this section at the time of the carrying or delivery of the Separate Account security; and

(3) The conditions set forth in paragraph (f) of this section are satisfied.

(d) Sending Communications. A communication relating to an offering registered on Form N-4 sent or given after the effective date of the registration statement (other than a prospectus permitted or required under section 10 of the Act) shall not be deemed a prospectus under section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)) if:

(1) It is proved that prior to or at the same time with such communication a Summary Prospectus was sent or given to the person to whom the communication was made; and, if any other materials accompany the Summary Prospectus, the Summary Prospectus is given greater prominence than those materials and is not bound together with any of those materials;

(2) The Summary Prospectus that was sent or given satisfies the requirements of paragraph (b) of this section at the time of such communication; and

(3) The conditions set forth in paragraph (f) of this section are satisfied.

(e) Updated Summary Prospectuses.

(1) For purposes of paragraphs (c) and (d) of this section, a Summary Prospectus that satisfies the requirements of paragraph (b) of this section at the time it is sent or given shall be deemed to continue to satisfy those requirements until the earlier of the date on which:

(i) The information in the Summary Prospectus is required to be updated for any purpose; or

(ii) The Separate Account is required to file an amendment to its registration statement for the purpose of updating its Statutory Prospectus to satisfy the requirements of section 10(a)(3) of the Act (15 U.S.C. 77j(a)(3)).

(f) Availability of Variable Annuity Contract Statutory Prospectus and Certain Other Documents.

(1) The current Summary Prospectus, Statutory Prospectus, Statement of Additional Information, and most recent annual and semi-annual reports to shareholders under § 270.30e-2 are publicly accessible, free of charge, at the Web site address specified on the cover page or at the beginning of the Summary Prospectus on or before the time that the Summary Prospectus is sent or given and

current versions of those documents remain on the Web site through the date that is at least 90 days after:

(i) In the case of reliance on paragraph (c) of this section, the date that the Separate Account security is carried or delivered; or

(ii) In the case of reliance on paragraph (d) of this section, the date that the communication is sent or given.

(2) The materials that are accessible in accordance with paragraph (f)(1) of this section must be presented on the Web site in a format, or formats, that:

(i) Are convenient for both reading online and printing on paper;

(ii) Permit persons accessing the Statutory Prospectus or Statement of Additional Information to move directly back and forth between the table of contents in such document (including from the table of contents required by § 230.481(c)) and each section of the document referenced in the table of contents; and

(iii) Permit persons accessing the Summary Prospectus to move directly back and forth between each section of the Summary Prospectus and:

(A) Any section of the Statutory Prospectus and Statement of Additional Information that provides additional detail concerning that section of the Summary Prospectus, or

(B) Tables of contents in the Statutory Prospectus and Statement of Additional Information that prominently display the sections within the Statutory Prospectus and Statement of Additional Information that provide additional detail concerning that section of the Summary Prospectus.

(3) Persons accessing the materials specified in paragraph (f)(1) of this section must be able to permanently retain, free of charge, an electronic version of such materials in a format, or formats, that meet each of the requirements of paragraphs (f)(2)(i) and (ii) of this section.

(4) The conditions set forth in paragraphs (f)(1), (f)(2), and (f)(3) of this section shall be deemed to be met, notwithstanding the fact that the materials specified in paragraph (f)(1) of this section are not available for a time in the manner required by such paragraphs, provided that:

(i) The Separate Account has reasonable procedures in place to ensure that the specified materials are available in the manner required by paragraphs (f)(1), (f)(2), and (f)(3) of this section; and

(ii) The Separate Account takes prompt action to ensure that the specified documents become available in the manner required by paragraphs (f)(1), (f)(2), and (f)(3) of this section, as soon as practicable following the earlier of the time at which it knows or reasonably should have known that the documents are not available in the manner required by paragraphs (f)(1), (f)(2), and (f)(3) of this section.

(g) If paragraph (c) or (d) of this section is relied on with respect to a Variable Annuity Contract, the Separate Account (or a financial intermediary through which the Variable Annuity Contract may be purchased or sold) must send, at no cost to the requestor and by U.S. first class mail or other reasonably prompt means, a paper copy of the Statutory Prospectus, Statement of Additional Information, and most recent Rule 30e-2 periodic reports to shareholders to any person requesting such a copy within three business days after receiving a request for a paper copy. If paragraph (c) or (d) of this section is relied on with respect to a Variable Annuity Contract, the Separate Account (or a financial intermediary through which shares of the Separate Account may be purchased or sold) must send, at no cost to the requestor and by e-mail, an electronic copy of the Statutory Prospectus, Statement of Additional Information, and most recent annual and Rule 30e-2 periodic reports to shareholders to any person requesting such a copy within three business days after receiving a request for an electronic copy. Compliance with this paragraph (g) is not a condition to the ability to rely on paragraph (c) or (d) of this section with respect to a Rule 30e-2 periodic reports, and failure to comply with paragraph (g) does not negate the ability to rely on paragraph (c) or (d).

(h) No updated statutory or summary prospectus shall be required to be delivered to an existing variable annuity customer if:

(i) an electronic version of the updated statutory prospectus is available on the Internet,

(ii) customers, upon request, receive a copy of the updated statutory prospectus free of charge,

(iii) there are no material changes in the updated statutory prospectus or, if a summary prospectus is used, in the updated summary prospectus, that would otherwise be distributed, and

(iv) customers receive an updated summary prospectus or, if not available, then an updated statutory prospectus, for each underlying fund corresponding to the subaccounts to which they have allocated purchase payments.

Proposed Amendments to Form N-4

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM N-4

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

PART A: INFORMATION REQUIRED IN A PROSPECTUS

Item 3. Summary

(a) **Introductory Information.** (i) Prominently identify the name of the variable annuity contract in the upper left corner of the beginning of the summary. If the information provided in response to this Item 3 is to be used as a summary prospectus pursuant to Rule 499, then (A) the document should be prominently identified as a “Summary Prospectus” in the upper right corner of the first page and the date of the Summary Prospectus should appear immediately thereunder, and (B) the document should include the following legend at the beginning of the Summary Prospectus:

Before you buy, you may want to review the Contract’s prospectus, which contains more information about the Contract and its risks. You can find the Contract’s prospectus and other information about the Contract, including the statement of additional information, online at [Web address]. You can also get this information at no cost by calling 1-800-000-0000 or by sending an e-mail to [e-mail address].

Instructions to paragraph 3(a)(i): If the summary is to be used as a summary prospectus pursuant to Rule 499, then it must be clear, concise, and understandable, and avoid the use of technical or legal terms, complex language, or excessive detail. If Registrants choose to incorporate by reference the Contract’s prospectus, statement of additional information, or other information permitted by Rule 499 into the summary prospectus, include a statement identifying the nature and date of the information being incorporated by reference.

For example: The Contract's prospectus and statement of additional information, both dated _____, are incorporated by reference into the summary prospectus and .

(ii) **Type of Contract.** Under this heading,

(A) Identify the type of variable annuity contract to which the prospectus relates, e.g., whether it is a deferred or immediate annuity, single or flexible premium, etc. Briefly describe that the contract has an accumulation period, if applicable, and an income period;

(B) Include the following legend:

This variable annuity contract may be appropriate for you if you want to save money for retirement and receive retirement income for life, or to meet other long-term financial objectives. It is not meant to be used to meet short-term financial goals. There may be limitations on your ability to withdraw money from your contract, and you should make sure you have sufficient liquid assets to meet short-term needs that may arise. You should consider the annuity's costs as well as its investment and income benefits.

Instructions to paragraph (3)(a)(ii)(B): Registrants should revise the legend as appropriate to accurately describe the intended purposes for the variable annuity contract and any limitations on the ability of the purchaser to withdraw or redeem money from the Contract. Additional warnings should be included in response to the "Risks" disclosure item below.

(C) Explain that the state in which the variable annuity contract is issued will govern which features, including riders, fees and charges, apply. Also explain that contract variations are reflected in the purchaser's contract as well as endorsements and riders to the contract.

(iii) **Free Look.** Under this heading, explain any rights to cancel under applicable state insurance laws and regulations, including the specific number of days within which such "free look" rights must be exercised.

(b) **Fees, Expenses and Other Charges.** Under this heading,

(i) Include the following information, in plain English under Rule 421(d) under the Securities Act [17 CFR 430.431(d)]:

This section describes the fees, expenses and other charges associated with your variable annuity contract. The amount of a charge may not equal our costs for providing services or benefits. We expect to make a profit from certain charges. We may use proceeds from certain fees and charges to cover shortfalls from other

expenses. The first table describes the charges you pay at the time you buy the Contract, withdraw account value or transfer account value between investment options. The tables do not show premium taxes of up to x% and other taxes which may apply.

Table 1 – Contract Transaction Expenses

Maximum Sales Charge Imposed on Purchase Payments	___%
Withdrawal Charge (as a percentage of each payment)	Up to ___%
Transfer Fee	\$___

Instructions to Table 1: Where no charges are imposed, registrants should state “none.” Registrants should revise the parenthetical following “Withdrawal Charge” as appropriate to accurately describe the basis on which the charge is deducted.

The second set of tables describes the fees and expenses that you pay periodically during the time you own your contract, but does not include fees and expenses of the underlying funds.

Table 2(a) – Fees Deducted on Each Contract Anniversary and at Surrender

	Current	Maximum
Annual Contract Fee	\$___	\$___

Table 2(b) – Separate Account Charge (as a percentage of your average daily account value on an annual basis)

	Current	Maximum
Total Insurance Charges	___%	___%

Table 2(c) – Optional Benefits

	Current	Maximum
[Type of Optional Benefit]	___%	___%

Instruction to Table 2(c): List all optional benefits that are offered, along with the current and maximum fee for each.

The third table shows the minimum and maximum total operating expenses (as a percentage of average daily net assets) charged by the underlying funds that you pay periodically while you own the variable annuity contract.

Table 3 – Fund Operating Expenses

For more information about each Fund's fees and expenses, see that Fund's prospectus.

	Minimum	Maximum
Total Annual Fund Operating Expenses for the fiscal year ending _____	____%	____%
After Waiver and/or Reimbursement of Expenses	____%	____%

(ii) In the notes following the tables,

(1) **Sales charge.** Briefly describe any arrangements that result in breakpoints in, or elimination of, sales loads (*e.g.*, letters of intent, accumulation plans, dividend reinvestment plans, withdrawal plans, exchange privileges, employee benefit plans, redemption reinvestment plans, and waivers for particular classes of investors). Identify each class of individuals or transactions to which the arrangements apply and state each different breakpoint as a percentage of both the offering price and the net amount invested. If applicable, state that additional information concerning sales load breakpoints is available in the SAI.

(2) **Withdrawal charge.** Disclose in tabular form the amount of any applicable withdrawal charge and how that charge applies (*e.g.*, against purchase payments withdrawn or assets remaining, first-in/first-out, etc.). Describe whether and how any amounts can be withdrawn without the assessment of a withdrawal charge. State, if true, that the withdrawal charge is designed to reimburse the company for sales commissions and distribution expenses. Provide an example showing the consequences of a withdrawal in the first contract year and stating the last contract year in which a withdrawal charge applies.

(3) **Contract maintenance charge.** Explain the circumstances under which this charge may be waived, what this charge is for, and when it may cease to apply.

(4) **Insurance-related charges.** Briefly describe the nature of any insurance-related charges, such as mortality and expense risk charges, and any administrative charge. State that these charges may not increase once the contract has been issued.

(5) **Optional benefit charges.** Explain how optional benefit charges apply (*e.g.*, to a "benefit base," or purchase payments, or assets) and when they are deducted and for how long. Describe the circumstances, if any, when these charges may change or increase.

(6) **Fund fees and charges.** Explain that expenses that Total Annual Fund Operating Expenses include management fees, distribution and/or service (12b-1) fees, administration fees, and other expenses, as applicable.

(7) **Other fees and taxes.** Explain whether the Registrant reserves the right to charge or collect a redemption fee imposed by an underlying fund and the circumstances when such charge might apply. Provide a brief explanation of premium and other taxes, including Registrant's practice regarding the deduction for these taxes.

(c) **The Annuity Contract -- Benefits.** Under this heading,

(1) **Benefits.** (A) Include the following information:

This variable annuity is a contract between you and our company. We agree to make payments to you, starting now or at some time in the future. You can invest your money in our fixed interest account and in any or all of the investment choices we offer. The annuity includes a death benefit that will be paid to your beneficiary if you die before we start to pay you income from your annuity. You also have choices about how we pay you income from the annuity, including payouts guaranteed to last as long as you live.

(B) Immediately after the narrative disclosure required by paragraph (A), provide a brief description of the following disclosure items, using bullets and headings that correspond to the items:

(i) **Investment Choices.** State the number of underlying fund choices available and total the number funds that can be selected at any given time. State that the value of each investment choice will fluctuate with the value of the investments it holds and that returns are not guaranteed.

(ii) **Fixed Account.** Briefly describe any available fixed account option.

(iii) **Withdrawal charge waivers.** Briefly describe any withdrawal charge waivers, e.g., for nursing care, terminal illness, unemployment, etc.

(iv) **Automatic plans.** Briefly describe any automatic payout, portfolio rebalancing, dollar cost averaging, or withdrawal programs.

(C) Following the bulleted disclosure required by paragraph (B), under the heading "How do I get income (payouts) from my annuity?" briefly describe the available annuity payout options and the basis on which the contract can be annuitized, e.g., fixed only, variable only, or fixed and variable.

(d) **Optional Benefit Riders.** Briefly describe any optional benefit under headings that match the name of the rider, e.g., guaranteed minimum accumulation benefit, guaranteed minimum income benefit, etc.

(e) **Risks, Conditions, and Limitations.** Briefly describe the principal risks associated with the variable annuity contract, using bullets to separate each risk. Also describe any conditions or limitations important to a consideration of the value of any benefit under the variable annuity contract. If the variable annuity offers a bonus, state that fees and expenses may be higher and the surrender charges may be applied for a longer period of time than on other variable annuities.

(f) **Taxes.** Provide a brief description of the tax consequences of purchasing and owning the variable annuity contract.

(g) **Purchase and Sale Information.** Briefly describe how to purchase the variable annuity contract. Describe any minimum purchase payments. Describe who can purchase the contract. Also briefly describe the conditions under which an owner can withdraw some or all of the value of his or her contract. Include a brief description of any deferred sales charge, including any waivers, and a statement that the withdrawal may be subject to income tax and to a tax penalty.

(h) **Other Information.**

(1) **Information about Broker Compensation and Conflicts.** Under this heading, disclose any payments made to broker-dealers or other distributors (e.g., a bank) for selling a variable annuity contract. State, if applicable, that the broker-dealer also may have certain revenue sharing arrangements or pay its personnel more for selling this variable annuity contract than for selling other contracts. Request the purchaser to ask his or her distributor for more information on how the intermediary is paid or to visit the intermediary's Web site for more information.

(2) **Additional Information.** Registrants should briefly describe any other information they deem relevant to purchasers. Registrants should take caution in drafting this section in that it should not add unnecessarily to the length of the summary. Confusing names should not be used without explanation.

General Instructions to Item 3:

1. The purpose of the summary is to provide key information about the variable annuity contract in a way that is understandable by the average investor. Paragraphs (a) through (h) of this Item 3 describe the disclosures required of a summary prospectus authorized by Rule 499. Registrants are not required to use a summary prospectus as a stand alone document for any purpose, but may use it for the purposes described in Rule 499.

Francis E. Harmon, Acting Secretary

December 3, 2008

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2. All summaries must use the exact headings prescribed in Items 3(a) through (h) and may not contain any information other than information that responds to these items.
3. If used as a summary prospectus pursuant to Rule 499, the summary should not, except as provided in Rule 499 or as permitted by this Item 3, contain cross-references to the full prospectus or to any other document. The use of footnotes should be avoided, if possible.

APPENDIX B

THE ABC VARIABLE ANNUITY

SUMMARY PROSPECTUS

Dated _____, 2008

Before you buy, you may want to review the Contract's prospectus, which contains more information about the Contract and its risks. You can find the Contract's prospectus and other information about the Contract, including the statement of additional information, online at [Web address]. You can also get this information at no cost by calling 1-800-000-0000 or by sending an e-mail to [e-mail address]. The Contract's prospectus and statement of additional information, both dated April 27, 2008, are incorporated by reference into this Summary Prospectus.

Type of Contract: This is a flexible premium variable annuity, which means you can purchase it with one or more premium payments. It is a deferred variable annuity, which means it has a savings period, during which you make investments, and an income period, during which you collect annuity payouts over a fixed or indeterminate time period. It can accumulate earnings: 1) from various investment options we offer and 2) from a fixed option. The value of your investments is used to set your benefits.

The ABC Variable Annuity may be appropriate for you if you want to save money for retirement and receive retirement income for life, or to meet other long-term financial objectives. It is not meant to be used to meet short-term financial goals. There may be limitations on your ability to withdraw money from your contract, and you should make sure you have sufficient liquid assets to meet short-term needs that may arise. You should consider the annuity's costs as well as its investment and income benefits.

The state in which your ABC Variable Annuity is issued will govern which features, including riders, fees and charges, apply. Variations are reflected in your contract, endorsements to your contract and riders.

Free Look: Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back.

This section describes the fees and expenses associated with your Contract. The amount of a charge may not equal our costs for providing services or benefits. We expect to make a profit from certain charges. We may use proceeds from certain fees and charges to cover shortfalls from other expenses. The first table describes the charges you pay at the time you buy the Contract, withdraw account value or transfer account value between Investment Options. The tables do not show premium taxes of up to x% and other taxes which may apply.

FEES AND EXPENSES

Table 1 – Contract Transaction Expenses

Maximum Sales Charge Imposed on Purchase Payments	None
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Withdrawal Charge (as a percentage of each payment) (1)	Up to 5%
Transfer Fee	None

The second set of tables describes the fees and expenses that you pay periodically during the time you own the Contract, but does not include fees and expenses of the Funds.

Table 2(a) – Fees Deducted on Each Contract Anniversary and at Surrender

	Current	Maximum
Annual Contract Fee (2)	\$30	\$50

Table 2(b) – Separate Account Charge (as a percentage of your average daily account value on an annual basis)(3)

	Current	Maximum
Total Insurance Charges	1.25%	1.80%

Table 2(c) – Optional Benefits (4)

	Current	Maximum
Enhanced Earnings Benefit	0.25%	0.25%
Guaranteed Minimum Income Benefit	0.50%	0.75%
Guaranteed Minimum Withdrawal Benefit	0.65%	1.20%
Guaranteed Minimum Death Benefit	0.25%	0.50%
Guaranteed Lifetime Withdrawal Benefit	0.25%	0.50%

The third table shows the minimum and maximum total operating expenses (as a percentage of average daily net assets) charged by the Funds that you pay periodically while you own the Contract.

Table 3 – Fund Operating Expenses

For more information about each Fund's fees and expenses, see that Fund's prospectus.

	Minimum	Maximum
Total Annual Fund Operating Expenses for the fiscal year ending December 31, 2007 (5)	0.50%	2.00%
After Waiver and/or Reimbursement of Expenses	0.45%	1.95%

Notes

1. A withdrawal charge may apply if you withdraw purchase payments that are credited to your Contract. The charge on purchase payments is calculated according to the following schedule:

If Withdrawn During Year	
0	5%
1	4%
2	3%
3	2%
4	1%
Thereafter (5+)	0%

Each Contract Year, you may withdraw up to 10% of your total purchase payments without a withdrawal charge. In addition we do not charge you a withdrawal charge if you meet the following conditions: You or your spouse have a terminal illness or are confined to a nursing home of hospital after the first contract year.

The withdrawal charge is designed to reimburse us for sales commissions and our distribution expenses. We calculate the charge on a "first-in-first-out" basis (oldest money first) on each purchase payment, based upon the number of years since we received the purchase payment withdrawn.

Example: If you withdraw \$5,000 from your annuity in the first contract year, your surrender charge is $\$5,000 \times .05 = \250 . If you take out any amount after the end of the fifth contract year, there's no charge.

2. This fee, which compensates us for maintaining the Contract, is waived if your account value is \$50,000 or more. It does not apply after the Annuity Date.
3. The Separate Account charge includes insurance-related charges (mortality and expense risks) that pays us for the risk that you may live longer than we estimated in which case we would be obligated to pay more annuity payments than expected or that you die during the accumulation phase of your Contract in which case we may have to pay your beneficiary more than your Contract's account value. We also bear the risk that the cost of administering your Contract is more that we estimated. Once we issue your Contract, we may not increase these charges for your Contract.
4. The charge for the optional benefit is the applicable percentage of the "benefit base" for that rider. It is deducted at the end of the Contract Anniversary by withdrawing amounts on a pro-rata basis from your Fixed Account balance and from your separate account balance by canceling accumulation units. The charge will continue until the rider is terminated; it is pro-rated if termination is other than at the Contract Anniversary.
5. Total Annual Mutual Fund Expenses include Fund management fees, distribution (12b-1) fees, administration fees, and other expenses.
6. Other fees and taxes that may apply:

a. **Redemption Fees.** We reserve the right to charge a redemption fee or collect a redemption fee imposed by a Fund on account of a transfer you make between Investment Options or any fee required by a regulatory authority.

b. **Premium and Other Taxes.** Some jurisdictions tax annuity premiums or account values. Our practice is to deduct these taxes only on the annuity date. In the future, we may deduct them from purchase payments. We reserve the right to deduct from purchase payments, death benefits, account value, withdrawals or annuity payments any taxes paid by us to any governmental entity relating to the Contracts.

THE ANNUITY CONTRACT

BENEFITS

This variable annuity is a contract between you and our company. We agree to make payments to you, starting now or at some time in the future. You can invest your money in our fixed interest account and in any or all of the investment choices we offer. The annuity includes a death benefit, equal to the greater of your premium payments (less any withdrawals) or the contract value at the time of death, that will be paid to your beneficiary if you die before we start to pay you income from your annuity. You also have choices about how we pay you income from the annuity, including fixed or variable payouts over a certain period of time as well as payouts guaranteed to last as long as you live.

Other benefits of the contract include:

- **Investment choices:** Choose from 41 fund portfolios. You may invest in up to 25 portfolios at a time. The value of each portfolio will fluctuate with the value of the investments it holds, and returns are not guaranteed.
- **Fixed account:** Offers a guaranteed minimum interest rate on the amount you allocate to this option. Amounts allocated to this option, and your earnings credited are held in our General Account.
- **Nursing care and terminal condition withdrawal:** If you or your spouse are in a hospital or nursing facility or diagnosed with a terminal condition, you can take money from your annuity without paying a surrender charge under some conditions.
- **Unemployment waiver:** If you (or your spouse) are unemployed, you won't pay certain costs when you take money from your annuity.
- **Systematic payout option:** You can get monthly, quarterly, or annual payments from your annuity in set amounts without paying any surrender charge.

How do I get income (payouts) from my annuity?

You can choose to receive a lump sum payout or a series of income payments at regular intervals. You can choose (1) monthly payments for a specified period of five to thirty years; (2) monthly payments for your life, and you may choose to have the payments continue to a beneficiary for the balance of ten or twenty years if you die sooner; or (3) monthly payments for your life and for the life of another person (usually your spouse) selected by you.

You can choose fixed or variable annuity payments, or a combination of both. If you choose variable payments, the amount of each payment will fluctuate depending on the performance of the investment portfolios chosen.

OPTIONAL BENEFIT RIDERS

The contract also offers other benefits for an extra cost:

Enhanced earnings benefit (EEB): Pays your beneficiary an extra death benefit in some situations, usually equal to a percentage of earnings.

Guaranteed minimum income benefit (GMIB): Guarantees that the contract owner may annuitize the contract based on the greater of the actual account balance or a payout base.

Guaranteed minimum withdrawal benefit (GMWB): Guarantees that a certain percentage of a guaranteed benefit base can be withdrawn annually until the base is completely recovered, regardless of market performance or actual account balance.

Guaranteed minimum death benefit (GMDB): Guarantees that beneficiaries will receive a minimum death benefit equal to the greatest of: premiums paid, current Contract value, and the maximum Contract anniversary value.

Guaranteed lifetime withdrawal benefit (GLWB): Guarantees that a certain percentage of a guaranteed benefit base can be withdrawn annually for the life of the contract owner, regardless of market performance or actual account balance.

RISKS, CONDITIONS AND LIMITATIONS

- For products sold in the tax qualified/403(b) context, there is no additional tax benefit to investing through a variable annuity.
- This product is an investment that carries investment risk. You could lose some or all of your contract value.
- Fees and charges assessed under the contract and by the underlying mutual funds will reduce the return on your annuity contract. Performance may not be high enough to offset the charges.
- Surrender charges and tax penalties may apply to early withdrawals.

- Optional benefit riders are complex – you should carefully consider the benefits, features and cost of each rider to determine which benefits are appropriate for your situation. You may not receive the benefit you paid for if you don't meet the conditions of the benefit and you may have limited investment options if certain benefits are chosen.
- If you are exchanging another variable annuity contract for this contract, you should carefully consider whether the exchange is appropriate for your individual needs.

TAXES

Variable annuities are tax-deferred, which means you don't pay taxes on the annuity's accumulated earnings until the money is paid to you. When you take payouts or make a withdrawal, you pay ordinary income taxes on the accumulated earnings. You also defer paying taxes on earnings if you move money from one investment option in your annuity to another. If your state imposes a premium tax, it will be deducted from the money you receive. You can exchange one tax-deferred annuity for another without paying taxes on the accumulated earnings when you make the exchange. Before you do, compare the benefits, features, and costs of the two annuities, and whether you would incur a surrender charge, or be subject to a new surrender period. You may want to consult with a tax advisor in regard to your purchase.

Buying an annuity within an IRA, 401(k), or other tax-deferred retirement plan doesn't give you any extra tax benefits. In such cases, choose your annuity based on its other features and benefits as well as its risks and costs, not its tax benefits.

HOW TO PURCHASE A CONTRACT AND ACCESS YOUR MONEY

To purchase a variable annuity contract, please contact your financial representative. You can access your money at any time by sending us a withdrawal request. A withdrawal charge may apply if the amount requested in any Contract Year exceeds the "free withdrawal" amount for that year. A 10% tax penalty also may apply for withdrawals made before age 59 ½.

OTHER INFORMATION

We may change your annuity contract from time to time to follow federal or state laws and regulations. If we do, we'll tell you about the changes in writing.

Payments to Broker-Dealers and Other Distributors: If you purchase this contract from a Broker-Dealer or other distributor (such as a bank), the Insurance Company may pay the intermediary for selling the contract to you. Your broker-dealer or distributor also may have certain revenue sharing arrangements or pay its personnel more for selling this annuity contract than for selling other variable annuity contracts.

You should ask your salesperson for information about how he or she is paid or visit the financial intermediary's Web site for more information.

Francis E. Harmon, Acting Secretary

December 3, 2008

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Additional Information. XYZ Life Insurance Company offers a wide variety of retirement and financial security products, including life insurance, annuities, long-term care, and disability income insurance. We also are a leading provider of products and services to workplace-based pension plans—both defined contribution and defined benefit plans. Our financial strength is as follows: A+ (A.M. Best); AA (S&P); Aa3 (Moody's); and AA+ (Fitch).

XYZ Life Insurance Company

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