MEMO# 21399

July 27, 2007

Variable Annuity Seller Settles with Attorneys General

[21399]

July 27, 2007

TO: VARIABLE INSURANCE PRODUCTS ADVISORY COMMITTEE No. 9-07
SEC RULES MEMBERS No. 94-07
SMALL FUNDS MEMBERS No. 62-07
COMPLIANCE MEMBERS No. 40-07 RE: VARIABLE ANNUITY SELLER SETTLES WITH ATTORNEYS GENERAL

An insurance company and its subsidiaries and affiliates ("Respondent") recently announced a joint settlement regarding the New York Attorney General's investigation of market timing within the company's variable annuity products. [1] The Respondent also settled with the New York, Connecticut and Illinois Attorneys General, resolving matters relating to their investigations of the compensation arrangements between the Respondent and its property-casualty agents and brokers. The State of New York Insurance Department joined in the settlement too. In settling the matter, Respondent neither admitted nor denied any violation of federal or state law.

According to the settlement documents, the Respondent allegedly breached its fiduciary duties to investors in its variable annuity mutual funds by failing to prevent hedge funds and other entities from engaging in "dilutive 'market timing' practices;" failing to disclose fully the fund timing activities to investors; taking insufficient steps to stop harmful market timing; and investing in a hedge fund that was timing the Respondent's own variable annuities, "thereby harming long-term investors." With respect to improper agent and broker compensation, the settlement documents state that certain employees of the Respondent allegedly engaged in improper underwriting, providing fictitious quotes for commercial insurance, and participated in schemes to steer insurance business.

In settling both the market timing and the broker and agent compensation matters the Respondent agreed to various undertakings and agreed to pay, in total, $115 million. This amount consists of $89 million in restitution ($84 million for market timing and $5 million for broker compensation) and $26 million in penalties. A substantial portion of the cost of the settlement has already been funded by the previously disclosed reserve of $83 million set aside for regulatory matters.

Heather L. Traeger
Assistant Counsel

endnotes

[1] *See* Assurance of Discontinuance, In the Matter of The Hartford Financial Services Group, Inc. (July 23, 2007), available at http://www.oag.state.ny.us/press/2007/jul/Hartford%20AOD.pdf; *see also* "Attorney General Cuomo Announces $115 Million Settlement with Hartford; Agreement Settles Investigation Into Market Timing and Fictitious Insurance Quotes; Hartford Apologizes and Promises to Reform," Attorney General press release dated July 23, 2007, available at http://www.oag.state.ny.us/press/2007/jul/jul23b_07.html.