

**MEMO# 22085**

December 28, 2007

# **FINRA Files Proposal to Delay Principal Approval Requirements of New Sales Practices Rule for Deferred Variable Annuities**

[22085]

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TO: VARIABLE INSURANCE PRODUCTS ADVISORY COMMITTEE No. 25-07  
SEC RULES MEMBERS No. 160-07 RE: FINRA FILES PROPOSAL TO DELAY PRINCIPAL APPROVAL REQUIREMENTS OF NEW SALES PRACTICES RULE FOR DEFERRED VARIABLE ANNUITIES

FINRA filed a proposed rule change with the SEC that seeks to delay until August 4, 2008, the effective date of the “Principal Review and Approval” section of new Rule 2821, governing sales practice standards and supervisory requirements of deferred variable annuities. [\[1\]](#) The proposal also seeks comment on certain aspects of the rule related to this same section.

On September 19, we informed members that the SEC had granted accelerated approval to a proposed rule change filed by FINRA relating to deferred variable annuity transactions and had established May 5, 2008 as the new rule’s effective date. [\[2\]](#) Following SEC approval of Rule 2821 and publication of a FINRA Regulatory Notice, [\[3\]](#) some firms raised several concerns to FINRA regarding the “Principal Review and Approval” section of the new rule, including:

- whether the “seven business days” period for principal review and approval is adequate;
- whether broker-dealers that do not make any recommendations to customers (and generally do not employ principals to perform suitability reviews) should be subject to the principal review and approval requirements; and
- whether insurers should be allowed to deposit customer funds in suspense accounts under certain circumstances prior to completion of the principal review and approval

process.

Firms also requested additional time to make necessary systems changes to comply with Rule 2821 generally.

In response to the concerns, FINRA filed the proposed rule change that would delay the effective date of the “Principal Review and Approval” section of Rule 2821 until August 4, 2008. The other sections of the rule would become effective as scheduled on May 5, 2008. The proposal also states that FINRA seeks comment on, and will “give further consideration” to, the concerns raised by firms. The proposal notes that FINRA would file a separate rule change with the SEC if it concludes that further rulemaking is warranted.

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#### **endnotes**

[1] See FINRA File No. SR-2007-040 (December 21, 2007). The SEC has not yet published notice of the proposed rule change, but the text of the proposed rule change is available on FINRA’s website at [http://www.finra.org/web/groups/rules\\_regs/documents/rule\\_filing/p037660.pdf](http://www.finra.org/web/groups/rules_regs/documents/rule_filing/p037660.pdf). Comments on the proposed rule change will be due to the SEC after it is published in the Federal Register.

[2] [Memorandum](#) to SEC Rules Members No. 123-07, dated September 19, 2007 [21618].

[3] FINRA Regulatory Notice 07-53, Deferred Variable Annuities: SEC Approves New NASD Rule 2821 Governing Deferred Variable Annuity Transactions (November 2007). The Regulatory Notice is available on FINRA’s website at [http://www.finra.org/web/groups/rules\\_regs/documents/notice\\_to\\_members/p037421.pdf](http://www.finra.org/web/groups/rules_regs/documents/notice_to_members/p037421.pdf).