

MEMO# 3697

April 15, 1992

NASAA ADPOTS FINAL GUIDELINES FOR CONTRACTUAL PLANS

April 15, 1992 TO: CONTRACTUAL PLANS COMMITTEE NO. 8-92 RE: NASAA ADOPTS FINAL GUIDELINES FOR CONTRACTUAL PLANS

At the 1992 NASAA Spring Conference, members of NASAA officially adopted the NASAA Investment Company Registration/Trading Practices Committee's proposed guidelines for registration of periodic payment plans. As you know, the Institute and its contractual plan members have been working with the NASAA Committee for the past two years in drafting these guidelines. A summary of the guidelines is as follows: 1. Extension of Refund Provision. The guidelines extend the federally mandated 18 month refund period to 28 months and require a notice informing investors of this refund right to be sent not less than 30 nor more than 60 days prior to the expiration of the 28 month refund period. The guidelines also require that each investor in a contractual plan be provided with a disclosure document at the time of sale which sets forth the 28 month refund provision. 2. Persistency Rate. The guidelines require plan sponsors to file a persistency report within 60 days of the end of the plan's fiscal year end to all states that have adopted the guidelines (starting with all fiscal years beginning on or after January 1, 1993). A plan sponsor who fails to maintain a persistency rate of 70% or higher within a particular state must furnish a report explaining the reason(s) for the lower persistency rate in that state. Failure to furnish the report or to provide a satisfactory explanation regarding the low persistency rate shall be grounds for the administrator to deny, suspend or revoke the registration of the contractual plan. Moreover, an administrator may take administrative action based upon low persistency rates in other jurisdictions; however, this provision does not apply to the renewal of any contractual plan currently registered. 3. Investment Objective. The guidelines require that the investment objective of the underlying fund be a fundamental policy as defined in Section (8) of the Investment Company Act of 1940 (i.e., may not be changed without shareholder approval). If the fund's investment objective is not currently a fundamental policy, it shall be made one at the next meeting of shareholders. Moreover, the investment objective of the underlying fund shall be one that is "consistent with the goal of providing a long-term investment opportunity suitable for persons of relatively modest means." 4. Effective Date. The effective date of the guidelines is 60 days after the date upon which the vote for adoption occurs (March 29, 1992). However, the cover letter from the Chair of the NASAA Committee indicates that some states may exercise their discretion and adopt portions of the guidelines sooner. Also, it is unclear whether or not individual states must formally adopt the guidelines before such may be applied in a particular jurisdiction. The Institute is seeking clarification on these points inasmuch as plan sponsors will need to know in advance the states that have adopted the guidelines in order to make the appropriate arrangements to comply with such. A copy of the guidelines as adopted by the NASAA

membership is attached. We will keep you advised of developments. Patricia Louie
Assistant General Counsel Attachment cc: Joel Goldberg, Esq.

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