

MEMO# 3538

February 24, 1992

NASAA COMMITTEE ISSUES REVISED PROPOSED GUIDELINES

February 24, 1992 TO: CONTRACTUAL PLANS COMMITTEE NO. 5-92 RE: NASAA COMMITTEE
ISSUES REVISED PROPOSED GUIDELINES

As we previously advised you, the Institute and certain of its contractual plan members met with representatives of NASAA in Boston on February 20, 1992 to discuss the NASAA Investment Company Registration/Trading Practices Committee's ("NASAA Committee") proposed guidelines for registration of contractual plans in the states. The proposed guidelines contained several provisions which were unacceptable to the contractual plan sponsors. (See Memorandum to Contractual Plans Committee No. 4- 92, dated February 18, 1992.) On February 21, 1992, the NASAA Committee issued a revised version of the proposed guidelines which will be submitted to members of NASAA for consideration at the NASAA Spring Conference (March 28 - April 1, 1992). The revised proposals incorporated several of the changes recommended by the Institute and the contractual plan sponsors. Such changes include the addition of a definition for "current account", modification of the definition of "persistency rate", deletion of the provision regarding the suitability of a contractual plan for certain retirement programs, modification of the prohibition on agent contact after the 28 month notice is sent and deletion of the requirement that all proceeds of the plan investment must be dedicated exclusively to the plan. However, the NASAA Committee amended the proposal regarding the investment objective of the underlying fund to require that the investment objective be "consistent with the principles of long-term investment and preservation of capital." Upon notification of this restriction, the Institute immediately contacted the Chair of the NASAA Committee to apprise her of the ramifications such restriction would have on all contractual plans. Based upon our discussions with members of the NASAA Committee on this issue, we have been advised that this provision will be amended as follows: The stated investment objective of a Periodic Payment Plan shall be a fundamental policy of the plan as defined in Section 8(b) of the Investment Company Act of 1940 and shall be consistent with the goal of providing a long term investment opportunity suitable for persons of relatively modest means. If a fund's investment objective is not currently a fundamental policy, it shall be made one at the next meeting of shareholders. *

* * A copy of the revised version of the NASAA Committee's proposed guidelines (without the foregoing amendment relating to the investment objective) as well as the Institute's follow-up letter to the NASAA Committee on the February 20th meeting is attached. We will keep you advised of developments. Patricia Louie Assistant General Counsel Attachments

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