Testimony of Sandy Praeger,
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Good afternoon Chairman Kohl, Ranking Member Smith, and Members of the Committee. My name is Sandy Praeger, and I am the Kansas Insurance Commissioner and President-Elect of the National Association of Insurance Commissioners (NAIC). The NAIC represents the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. The association's primary objective is to protect consumers and promote vibrant insurance markets. Thank you for holding this hearing to examine the qualifications of investment advisors who make recommendations to seniors on the investment of their money.

A recent series of news articles in the New York Times and the Wall Street Journal have pointed to problems with the use of professional designations, such as "Certified Senior Adviser," "Certified Retirement Financial Adviser," "Chartered Senior Financial Planner" and "Certified Financial Gerontologist," that imply expertise in providing investment advice to senior citizens. However, those designations in our experience involve very little actual training regarding the needs of this vulnerable population. It appears from these news articles that these designations, which are granted by for-profit entities, serve more as marketing tools than as actual evidence of education or professional development. Most of the problems that have been reported with those using these credentials in marketing materials have dealt with the sale of unsuitable annuities to senior citizens. Annuities are complex financial instruments. State and federal regulators must remain vigilant in monitoring annuity sales to ensure that producers and insurers sell suitable products.

Insurance Commissioners across the country closely examine the background and training of all those selling annuities and insurance. In addition, our department has developed training programs for producers on the various aspects of the different annuity products. We then can use the information to conduct seminars around the state. Licensing requirements provide the foundation of the state regulator's efforts. Producers selling annuities and insurance must meet minimum standards with regard to knowledge of the products they sell, as well as the laws, regulations and guidelines that govern their sale. Insurance commissioners also ensure that those with criminal records and histories of fraud or other unacceptable conduct are not selling insurance and annuities to our seniors and to other residents of our states. Through the adoption of our suitability guidelines in Kansas and our enforcement activities we have seen a decline in the number of complaints that we are dealing with in our department. We have observed that companies have instituted more aggressive training requirements and compliance efforts with the producers authorized to sell their products.

The NAIC has also taken specific action to require that agents and companies selling annuities to senior citizens, and to all Americans, for that matter, take affirmative steps to ensure the suitability of the annuity for the consumer. In 2000, the NAIC adopted a white paper calling for the development of suitability standards for non-registered products, similar to those that existed for some time under the Securities and Exchange Commission (SEC) for registered products. The result of that white paper was a working group under the Life Insurance and Annuities Committee that drafted a model setting suitability standards for all life insurance and annuity products.

The committee decided to focus first on the area that had been identified as subject to the greatest abuse: the inappropriate sales of annuities to persons over the age of 65. The resulting Senior Protection in Annuity Transactions Model Regulation ("Suitability Model") was adopted by the NAIC in 2003. This new model was another tool that regulators could use to protect consumers from inappropriate sales practices in addition to the NAIC's Annuity Disclosure Model Regulation.

Purchasing life and annuity products is often a complicated and confusing process for consumers of all ages, not just for seniors, and there was a strong feeling among regulators that the protections of the Suitability Model should not be limited only to seniors. To address this issue, in 2006, the NAIC membership overwhelmingly adopted revisions to the Suitability Model to have its requirements apply to all consumers regardless of age.

The Suitability Model imposes certain duties and responsibilities on insurers and insurance producers regarding the suitability of a sale or exchange of an annuity to a consumer. Specifically, in recommending to a consumer the purchase of an annuity or the exchange of an annuity, the insurance producer, or the insurer if no producer is involved, must have reasonable grounds for believing that the recommendation is suitable for the consumer. This is based on facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs. To ascertain the product's suitability, prior to the execution of a purchase or exchange of the recommended annuity, the insurance producer, or insurer if no producer is involved, must make all reasonable efforts to obtain information concerning: (1) the consumer's financial status; (2) the consumer's tax status; (3) the consumer's investment objectives; and (4) any other information used or considered to be reasonable in making the recommendation to the consumer.

Approximately 32 states have adopted the Suitability Model or similar suitability regulations. Some states, Kansas and Missouri, for example, had already enacted laws covering all consumers regardless of age prior to the 2006 revisions. Other states, such as Iowa and Wisconsin, also have included life insurance products. As Insurance Commissioner, I take my responsibility in this regard very seriously. Since taking office in January of 2003, our department has received 506 annuity complaints and we have recovered more than $7.3 million for individuals with annuity problems. The complaints range from misleading advertising and marketing to claims handling with the most frequent category of complaint being misrepresentation of the product being purchased. As demonstrated by our experience in Kansas, state regulators have acted diligently to ensure that injured consumers are made whole.

To ensure compliance with these requirements, an insurer must establish and maintain a system of supervision that includes maintaining written procedures and conducting periodic reviews of its records that must be reasonably designed to assist in detecting and preventing violations of the model. Should a producer or insurer fail to meet their obligations under the model, the commissioner may order an insurer or producer to take corrective action and may also impose fines.

Every complaint is investigated and corrective action is taken when warranted. Over the past several years, Insurance Commissioners have been closely monitoring complaints from consumers regarding annuity sales. While the total number of complaints remains low relative to other lines of insurance, the complaints are still significant and show a troubling trend over time. For the states that have reported data on annuity sales to the NAIC, there has been a marked increase in the number of total complaints in the categories of suitability, agent handling, and misrepresentation over the past three years. The total numbers of complaints reported in these categories rose from approximately 1400 in 2004 to more than 2300 in 2006. The proportion of these complaints attributed to suitability issues has also increased each year, from just over 10% of that total in 2005, to more than 18% in the data reported thus far in 2007. Each and every complaint is reviewed and investigated by the state Department of Insurance. Since 2004, more than 75% of these annuity complaints reported by state regulators to the NAIC have been resolved in favor of the consumer.

There is no doubt that abuses do exist and that state and federal officials entrusted with the responsibility of protecting consumers must remain vigilant in their oversight of annuity sales. To this end, the NAIC continues to track trends and provide insurance regulators and consumers with the tools they need to identify and stop unfair practices. In addition, Insurance Commissioners and the NAIC have issued a

Consumer Alert to warn senior citizens about abusive sales practices and to urge them to be sure that they fully understand the product they are purchasing before signing the contract. All consumers should verify that they are dealing with a licensed agent when purchasing an annuity by following three simple steps: Before buying an annuity, they should stop, call their state insurance department, and confirm that the producer is properly licensed. I appreciate the opportunity to testify before the committee today and thank you for your attention to this important issue. I look forward to answering any questions you might have.

NAIC making progress . . . together Consumer ALERT
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Annulties and Senior Citizens

Senior Citizens Should Be Aware Of Deceptive Sales Practices When Purchasing Annuities

Annuity sales to senior citizens have significantly increased in recent years. However, as annuity sales have risen, so has a sense of confusion among consumers. This is due, in part, to questionable or deceptive sales practices employed by companies and agents looking to take advantage of uninformed consumers. It is extremely important, when considering whether or not to buy an annuity, to take the necessary precautions in order to make an informed decision that is best for you.

What is an Annuity?

An annuity is a contract in which an insurance company makes a series of income payments at regular intervals in return for a premium or premiums you have paid. Annuities are most often bought for future retirement income, and can pay an income that can be guaranteed to last as long as you live.

What are the Different Kinds of Annuities?

There are several types of annuities, all of which carry varying levels of risk and guarantees. To get the most out of an annuity, it is imperative that you know the different options available to you, as well as the benefits each type provides.

- **Single Premium Annuity**: An annuity in which you pay the insurance company only one premium payment.
- **Multiple Premium Annuity**: An annuity in which you pay the insurance company multiple premium payments.
- **Immediate Annuity**: An annuity in which you begin to receive income payments no later than one year after you pay the premium.
- **Deferred Annuity**: An annuity in which you begin to receive income payments many years later.
- **Fixed Annuity**: An annuity in which your money, less any applicable charges, earns interest at rates set by the insurance company or in a way specified in the annuity contract.
- **Variable Annuity**: An annuity in which the insurance company invests your money, less any applicable charges, into a separate account based upon the risk you want to take. The money can be invested in stocks, bonds or other investments. If the fund does not do well, you may lose some or all of your investment.

Understand the Product You are Buying

When it comes to annuities, inappropriate sales practices can occur in many ways and come from a variety of sources. Anyone can be a victim, but senior citizens remain a prime target. Here are a few ways to protect yourself:

- Always review the contract before you decide to buy an annuity. Terms and conditions of each annuity contract will vary.
- You should understand the long-term nature of your purchase. Be sure you plan to keep an annuity long enough so the charges don't take too much of the money you invest.
- Compare information for similar contracts from several companies. Comparing products may help you make a better decision.
- Ask your agent and/or the company for an explanation of anything you don't understand.
- Remember that the quality of service you can expect from the company and the agent should be an important factor in your decision.
- Verify that the company and agent are licensed. In order to sell insurance in your state, companies and agents must be licensed. To confirm the credibility of a company or agent, contact your state insurance department.
- Check the company's credit rating. Legitimate insurers have their "creditworthiness" rated by independent agencies such as Standard & Poor's, A.M. Best Co. or Moody's Investors Services. An "A+++" or "AAA" rating is a sign of a company's strong financial stability. You can check a company's rating online or at your local library.
- The proof is in the paperwork. As you complete your research and decide to purchase a particular policy, it's important to keep detailed records. Get all rate quotes and key information in writing. Once you've made a purchase, keep a copy of all paperwork you

- **Equity-Indexed Annuity**: A variation of a fixed annuity in which the interest rate is based on an outside index, such as a stock market index. The annuity pays a base return, but it may be higher if the index increases.

Is an Annuity Right for You?

To find out if an annuity is right for you, think about what your financial goals are for the future. Analyze the amount of money you are willing to invest in an annuity, as well as how much of a monetary risk you are willing to take. You shouldn't buy an annuity to reach short-term financial goals. When determining whether an annuity would benefit you, ask yourself the following questions:

- How much retirement income will I need in addition to what I will get from Social Security and my pension plan?
- Will I need supplementary income for others in addition to myself?
- How long do I plan on leaving money in the annuity?
- When do I plan on needing income payments?
- Will the annuity allow me to gain access to the money when I need it?
- Do I want a fixed annuity with a guaranteed interest rate and little or no risk of losing the principal?
- Do I want a variable annuity with the potential for higher earnings that aren't guaranteed and the possibility that I may risk losing principal?
- Or, am I somewhere in between and willing to take some risks with an equity-indexed annuity?

complete and sign, as well as any correspondence, special offers and payment receipts.

Avoid Being Fooled by Deceptive Sales Practices

Watch for the following red flags, which serve as warnings of possible deceptive sales practices:

- *High-pressure sales pitch*. If a particular group or agent has contacted you repeatedly, offering a "limited-time" deal that makes you uncomfortable or aggravated, trust your instincts and steer clear.
- *Quick-change tactics.* Skilled scam artists will try to prey on your "time fears." They may try to convince you to change coverage quickly without giving you the opportunity to do adequate research.
- *Unwilling or unable to prove credibility.* A licensed agent will be more than willing to show adequate credentials.
- Remember, if it seems too good to be true, it probably is!
- If you suspect you've been a victim of deceptive sales practices, or you have a specific question and can't get the answers you need from an agent or the insurance company, contact your state insurance department. You can link to its Web site by visiting