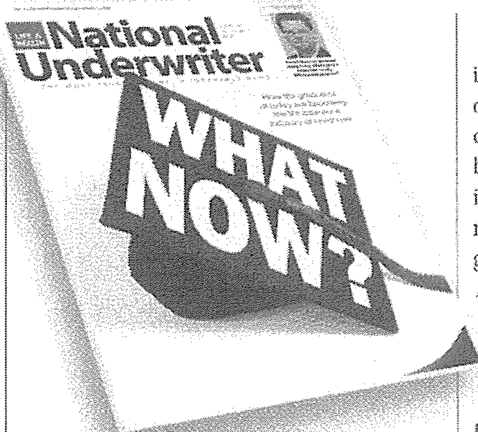
FEEDBACK

"What Would You Think?"

WHY DID *NATIONAL UNDERWRITER* print a story ("What Would You Think?" June 6, 2011) filled with allegations and no facts to back them up—a lot of smoke but no fire? The author's whole story centers around the purported miscalculation of the internal rate of return on a guaranteed payment stream. In fact, the author makes no claim that any other aspect of a "typical" presentation was inaccurate—not the payments, not the company's rating, not the bonus amount...

He claims that both the agent and the customer were unable to accurately calculate the internal rate of return, yet the author had no difficulty doing so. And he correctly points out that insurers are held to very strict advertising laws. To comply with those laws, insurers require producers to submit all material used in prospecting, educating or selling for approval prior to its use. Anything not submitted and approved whether it is a calculator, a spreadsheet or abacus, is not acceptable. State regulators pore over thousands of marketing materials and presentations to monitor insurers' and producers' compliance with and enforcement of the law. In fact, NAFA has produced a detailed guide to Advertising and Advertising Principles to help producers comply and understand their responsibility.

The author seems to believe that the internal rate of return is the most important aspect of the income rider. Why? The millions of consumers who have bought fixed annuities with a guaranteed income rider or feature have done so on the basis of its primary appeal—a steady, reliable retirement income that is guaranteed to continue for the rest of the owner's life. This income cannot be outlived, is known years in advance and guaranteed. We know of no other product that can assure them *today*—15 years in advance - that when they retire at age 65, their retirement savings will produce a payment stream of $17,447 annually that is guaranteed to continue for the rest of their lives. And, since the elements of the income formula—the compounding and the payout rate—are fully guaranteed, if Paul and Mary (the customers in the article) choose



to add money to the annuity contract, they know how much income the additional money will create.

Perhaps the income should be viewed as something other than a financial services product where return is the only benchmark. In fact, the income rider purchase could be viewed as a risk management vehicle. If this was the typical life insurance product the author sells, it would be frowned upon to tout the fantastic IRR for an insured who perished three years into a policy. Instead the life insurance provides financial protection against an event (death) an individual cannot predict. Similarly, the income rider provides financial protection against an event (long life leading to increased length of needed retirement income) an individual cannot predict. It is a risk management vehicle. It pays for the unpredictable event against which it protects. The value of the provided risk mitigation does not lessen if the vehicle does not pay out the largest "return" from a cash flow standpoint.

It is in this framework that we might wish to lessen the emphasis on IRR.

How can the *National Underwriter* print the article's profusion of unsubstantiated claims in the guise of questions? He asks questions about "this widespread and blatantly problematic practice" and yet provides no empirical evidence to prove this is true. He asks if "insurer sales materials [should] be tested on groups of consumers" and has not checked with insurers or consultants to find out if they do. He claims the product is "widely sold" and yet brings us no evidence that it is "widely misunderstood."

If the agent did portray his simple interest calculation as an internal rate of return, he was wrong and should be corrected. The remainder of the article boils down to a missed opportunity, one in which you could have educated your readers on the true uses of and need for guaranteed lifetime income.

Kim O'Brien, Executive Director
The National Association for Fixed Annuities

Brian Fechtel responds:

MY ARTICLE EXPLICITLY DESCRIBES an agent's misrepresentation, a very significant and material misrepresentation regarding the annuity's rate of return (ROR). Extensive documentation of this misrepresentation can be readily provided, and is available unconditionally to any regulator and to others as appropriate. Contrary to your words, there can be no question about the factual documentation behind my article; there is nothing 'purported' about the misrepresentation. Indeed, a couple of readers who commented online about the article confirm the article's essential message that this annuity either is 1) misrepresented or 2) that its marketing materials have the capacity or tendency to mislead or deceive - the latter being just as problematic.

Much of NAFA's rebuttal, waxes about the ***theoretical*** virtues of annuities. Such waxing, though, is seriously off target. Products aren't bought and sold based on their ***theoretical*** virtues; they are bought and sold based on their specifics, their represented competitiveness. This annuity's ROR is undeniably a fundamental factor in assessing its competitiveness. While you wrote, and seemed to concede, "...that we might wish to lessen the emphasis on IRR [certainly would seem prudent, especially when it's being misrepresented]," your attempt to avoid recognizing the importance of ROR/IRR is just amazing. Again, in the real world, Annuity X is purchased over Annuity Y or Mutual Funds A or B because of its prospects for competitive performance. However many variables you'd like to use to

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specify competitive performance, ROR is always a primary and critical factor. This is especially true when the particular ROR is guaranteed as the absolute minimum that one could receive, as it is/was in this case. Furthermore, this type of annuity is typically marketed with additionally components that offer possibly even more attractive performance, that is, potentially even larger RORs and annual payouts.

Incredibly, when not waxing irrelevantly, NAFA's rebuttal proceeds to incorrectly assert that I state "insurers are held to very strict advertising laws," when the article makes no such statement. In fact, in the article I twice use obvious innuendo to disparage industry compliance practices. Elsewhere (i.e., my web site), I state views exactly opposite your misquote; that is, that enforcement is terribly ineffective and misguided, and cite other authorities who agree with me. Yet somehow NAFA tries to use its misquote and its related rambling about what it believes are the industry's strict compliance and regulations to dodge the articles' vital public policy questions. However, despite NAFA's apparent resentment of these questions, they all are legitimate questions which naturally arise when this annuity and its marketing are understood. Since in court, replies like NAFA's are called non-responsive, let me briefly rephrase a few questions. 1) Given the undeniable importance of ROR, how is it that these annuities are marketed without sample RORs like that shown in my article? 2) Moreover, given that regulations are supposed to prohibit sales literature/presentations that have the capacity or tendency to mislead or deceive, how is it that these annuities are marketed without accompanying literature that highlights the readily erroneous misrepresentations and/or misconceptions that can arise regarding this annuity's ROR? And 3) Would NAFA like to work together with me to sample 100 consumers who have purchased this type of annuity to see what they do and don't understand about its ROR?

There is much more in your rebuttal that warrants a correcting response, but I will instead close briefly with the following two observations. One: If NAFA on its own cannot recognize this very problematic situation where an annuity is described and touted as compounding money at 8% for umpteen years, after paying a 10% bonus, and yet quite possibly is unlikely to provide consumers even a 5.5% return, and consumers are unaware or misinformed about such, then it would seem the courts will have to help NAFA finds its way. Two: While I can well understand that NAFA does not like my article's message, such feelings do not undermine the message's validity or importance. I invite you, Ms. O'Brien, and your NAFA members, to re-read and study my article, and then to contact me so that we together can set about correcting the problems. After all, our industry will never achieve its potential, and agents/planners will never be respected like doctors, until our industry adopts appropriate disclosure and actively repudiates and remedies problematic practices. I look forward to your reply and our future conversations.

R. Brian Fechtel
Breadwinners' Insurance

Correction

AXA EQUITABLE has never been deemed insolvent nor taken under state supervision. A sidebar ("Too Good to be True,") to Brian's Fechtel's aforementioned feature incorrectly stated that the company had failed twice in the 20th Century.

See the following page for an important Addendum to the *National Underwriter's* correction.

Off the Table

ON THE ONSET of the latest round of debate on healthcare reform, we were told – despite the wishes of the majority of Americans (as reflected in numerous polls) – that the "public option" was "off the table".

An editorial in the June 18 *British Medical Journal* looked at a widely acclaimed study of health outcomes in major developed countries. That study showed that our country "produced the worst score" and "was ranked consistently lowest overall..."

The author reported credible data showing that we Americans achieve worse health outcomes not only when matched against developed nations...but also as compared to impoverished countries like Cuba.

We accomplish this despite an annual per capita healthcare outlay ($7,410 - 2009 data) more than double that of the United Kingdom ($3,285) and 10 times higher than in Cuba ($707).

This editorial was written to caution the Conservative regime in the UK against emulating a "U.S. style corporate dominated system". The point was emphatically made.

Until we address this obviously unacceptable differential between spending versus results, it is premature to dismiss any option as arbitrarily "off the table."

Does our system really work for the vast majority of Americans?

If not, why do our elected representatives – putatively accountable for serving the best interests of their constituents – continue haggling over variations of a failed approach?

No doubt the mythology fabricated about the "unacceptable" performance of national healthcare programs is at the ... ose ... see how this spin-doctored mythology is manipulated to bamboozle Americans into thinking that a public system would not meet their needs.

Hank George, FALU, CLU, FLMI
Greendale, WI

**See the following page for an important
Addendum to the *National Underwriter's* correction.**

Regarding Equitable:

In my article's final footnote, I refer to Equitable's "second failure in the 20th century." While it is true that The Equitable has never been deemed insolvent, in 1905 former President Glover Cleveland was appointed Trustee to supervise the management of this company because of its terribly problematic operations. Such an event is hardly indicative of Gold Star or World Class performance. And then, in the early 1990s Dick Jenrette had to engineer a demutualization followed by a takeover by AXA.

So while some may prefer to whitewash history by saying that Equitable never failed or has no failures, I maintain that Equitable's activities that led to these extraordinary crises constitute undeniable managerial failures. I'm pretty sure that no policyholder, if he or she could foresee the future, would ever choose to buy from an insurer which would so stumbled as Equitable twice did. In the future, though, if Equitable's management would prefer, I will refer to these and similar managerial failures as "**shining examples of extraordinary life insurer incompetence**," which, again, I maintain, any policyholder desiring only to do business with a successful insurer would categorize as failures.

For the record, and to provide some valuable perspective, please note that I currently on occasion do recommend AXA-Equitable products. Breadwinners' clients have bought, and I have sold AXA-Equitable policies. The past, as we all know, is not a guarantee of the future. To be sure, I do not think AXA-Equitable will repeat its past terribly problematic practices. But at the same time, if something was or looked like a disaster, I call it a disaster. And The Equitable sure has made some fascinating history with its "**shining examples of** ...."