

# SECURITIES

Winter 2005

## bulletin



Investment advisers have a fiduciary duty to provide advice that is in the best interest of a client and to disclose all conflicts and fees. This is not necessarily true for a salesperson at a brokerage firm. Brokerage salespeople must sell suitable investments, but do not have the same disclosure and fiduciary obligations.

The distinction between advisers and brokers is not clear to many investors. Brokers often refer to themselves as “financial advisers,” “investment representatives,” “relationship managers” or other names to lull investors into believing they are dealing with investment advisers and not just salespeople.

The Securities & Exchange Commission recently proposed a rule that would exempt certain broker-dealers from registering under the Investment Advisers Act. The new rule would allow brokers to provide incidental investment advice without meeting all the requirements that investment advisers must adhere to. Individual investors, consumer advocates, the North American Securities Administrators Association and others submitted compelling comments to the SEC opposing this rule. Certain brokerage industry groups supported the exemption contending that it would be burdensome for brokers to comply with investment adviser requirements.

Regardless of the SEC's final decision, I encourage all investors to question their financial professional before investing. To verify whether your investment professional is registered as an investment adviser, salesperson or both, please call the Securities Department at 800-628-7937.

*Jesse White*

Jesse White  
Secretary of State



## Investor Alert Be aware of promissory notes

Many investors looking for alternatives to the stock market are investing in promissory notes. Promissory notes are a legitimate investment for many sophisticated or corporate investors; however, the promise of guaranteed returns is often the lure used by financial criminals to steal money from investors.

There are some red flags that investors should be aware of when considering investing in promissory notes:

- **"Insured" or "guaranteed" returns:** These terms are used to create a sense of safety; however, the alleged insurance often is nonexistent or backed by off-shore insurers who are not registered to sell insurance in the United States.
- **Promise of above-market returns:** Claims of returns that are higher than those of similar investments should always raise questions.
- **"Risk-free" notes:** The risk with promissory notes is that the issuing company will not be able to make the principal and interest payments. Because high returns always entail high risks, it pays to remember that there is no such thing as a “high return-low risk” investment.
- **"Prime quality" notes on a start-up company:** Prime quality investments require that a company have an established history of operations and earnings. If the company issuing the so-called “prime” notes is a start-up or new company, walk away.
- **Notes from a stranger:** A cold call — one that is unsolicited and whose seller is unknown — is usually a good sign that the investment is fraudulent. But remember, word of mouth carries many scams through a community. Look at all investments carefully, and don't take the word of a close friend. Check it out for yourself by calling the Securities Department.

# Annuities

# FAQ

**Q** What are “variable” annuities?

**A** Variable annuities and variable life insurance products combine features of insurance and securities investments. Although similar to mutual funds, variable annuities typically offer three basic features not commonly found in mutual funds:

1. Tax-deferred earnings
2. Death benefit
3. Annuity payout options that can provide income for life. If the payments are delayed to the future, it is a “deferred” annuity. If the payments start immediately, it is an “immediate” annuity.

**Q** My salesperson is encouraging me to exchange my current variable annuity for a new “more attractive” contract. What will I lose if I exchange my old product?

**A** Compare both products carefully:

- See if the guaranteed death benefit of the new product is less than the old one.
- Find out if you have to pay a surrender charge to get out of the old product.
- Ask if the new product imposes higher annual fees, a new surrender charge and a new surrender charge period.

You may decide it is to your advantage to stay with the old product.

**Q** Should I buy a variable annuity in my IRA, 401(k) or retirement account for the tax advantages?

**A** An important benefit of a variable annuity product is that the earnings on the investment are tax-deferred. However, because IRAs, 401(k)s and other retirement accounts are already tax-deferred, there is no additional advantage to purchasing a variable annuity within those accounts.

**Q** What are the consequences of early withdrawal with a variable annuity?

**A** Variable annuity products should be considered long-term investments. There can be substantial charges and tax consequences if you remove the money early. Many annuities have surrender charges for withdrawals within the first six or eight years. Any withdrawal made before reaching age 59 is generally subject to a 10 percent tax penalty, in addition to any gain being taxed as ordinary income. Because this investment vehicle is not readily liquid, it is not appropriate for every investor.

**Q** Aside from surrender and sales charges, what other fees am I likely to encounter when purchasing a variable annuity?

**A** Additional fees may include administrative fees for record-keeping, mortality and expense risk charges imposed by insurance companies to cover the guaranteed death benefits, the guaranteed income for life benefit and any promised guaranteed caps on administrative charges. There also can be underlying fund expenses based on the investment sub-accounts and charges for special features, such as stepped-up death benefits, guaranteed minimum income benefits, long-term health insurance and principal protection. These fees can reach 2 percent or more on the value of the annuity.

If there is a feature you do not want, ask to have it removed or consider if this investment is the right one for you.

## Key Filing Dates for 2005

As a reminder, clip the following schedule of key filing dates for forms due to the Securities Department. Firms are assessed late filing fees for required filings received after the filing deadlines. Registration information is available at [www.cyberdriveillinois.com](http://www.cyberdriveillinois.com).

### June 30, 2005

- ✓ Broker/Dealers — Responses concerning annual reports of branch offices due.

### December 1, 2005

- ✓ Business Brokers & Loan Brokers — Renewal forms for calendar year 2006 due.

### December 31, 2005

- ✓ Broker/Dealers — Designated principal filing statements due.
- ✓ Registered Investment Advisers — Designated principal filing statements and reports of branch offices due.

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## Business Acts, laws available online

The Illinois Securities Department is responsible for the administration of the following four statutes:

- Illinois Securities Law of 1953;
- Illinois Business Brokers Act of 1995;
- Illinois Business Opportunity Sales Law of 1995; and
- Illinois Loan Brokers Act of 1995.

Access to the current version of each statute, with links to the respective Act's administrative rules are available on the Secretary of State Web site at [www.cyberdriveillinois.com](http://www.cyberdriveillinois.com) (click Departments, then Securities).

Following is a list of business entities and their corresponding governing Act:

- Broker Dealers — Illinois Securities Law
- Business Brokers — Illinois Business Brokers Act of 1995
- Investment Advisers — Illinois Securities Law
- Loan Brokers — Illinois Loan Brokers Act of 1995

### Order of Cancellation

Dupont Securities Group, Inc.  
(B/D# 42305)  
42 Broadway, 11th Fl.  
New York, NY 10004

### Consent Order

James A. Blackburn  
C/O Howard Feldman  
Feldman, Wasser, Draper  
and Benson  
1307 S. Seventh St.  
Springfield, IL 62705

Robert William Esch  
DBA WhiteMountain Financial  
539 Troy Plaza  
Troy, IL 62294

### Order to Cease and Desist

Elijah Rubin  
W. Craig and Company  
4040 E. McDowell Rd., #409  
Phoenix, AZ 85008

### Summary Order of Denial

Bankers and Investors Co.  
(B/D# 6874)  
701 Minnesota Ave.  
Kansas City, KS 66101

Richard A. Saitta  
(CRD# 2592014)  
600 Revere Dr.  
Yorktown Heights, NY 10598

Frost Brokerage Services, Inc.  
(B/D# 17465)  
100 W. Houston St.  
San Antonio, TX 78299

Larcetta Linear  
(CRD# 4782300)  
307 Herndon St.  
Park Forest, IL 60466

### Consent Order of Dismissal

DBSI Securities Corp.  
(B/D# 11687)  
1550 S. Tech Ln.  
Meridian, ID 83642

### Final Order

Gerard Robert Celmer  
(CRD# 1779511)  
101 W. End Ave.  
Summit, NJ 07901

Christopher Jacob Kinsley  
(CRD# 715670)  
115 Ashbrook Ln.  
Aspon, PA 19014

### Consent Order of Prohibition

James E. Upshaw, Sr.  
1127 Mannheim Rd. #313  
Westchester, IL 60154

Christian Dream Builders  
Financial Planning, Inc.  
Kenneth D. Bivens  
20180 Governor's Hwy.,  
Ste. 310  
Olympia Fields, IL 60461

### Order of Prohibition

IMG  
1480 Terrell Rd., PMB 794  
Marietta, GA 30067

J & R Financial Group, Inc.  
3805 Kingsley Dr.  
Springfield, IL 62707

Our Stock Profits  
9 E. Elm Ct.  
Rensselaer, NY 12144

Premium One Solutions  
119 W. 72nd St., #170  
New York, NY 10023

Siemens Financial  
a/k/a Siemens Financial  
Services  
690 First Ave. South  
St. Petersburg, FL 33701

Westminister Financial  
Services, Inc.  
a/k/a Westminister  
Finance, Inc.  
253 Pinelawn Rd., Ste 607  
Melville, NY 11747

### Consent Order of Revocation

SCO Securities L.L.C.  
(B/D# 47748)  
1285 Avenue of the Americas,  
35th Fl.  
New York, NY 10019

Sandpoint Capital, L.L.C.  
(CRD# 123528)  
1320 Tower Rd.  
Schaumburg, IL 60173

### Consent Order of Suspension

Barbara R. Kaplan a/k/a  
Barbara R. Israel  
(CRD# 264030)  
180 E. Pearson  
Chicago, IL 60611

### Consent Order of Withdrawal

Brian F. Bimelson  
(CRD# 2262474)  
314 Powderhorn Rd.  
Fort Washington, PA 19034

## New Investor Education program targets seniors

Seniors have long been the target of scam artists and financial criminals. The Securities Department will launch a new program — Seniors Against Investment Fraud (SAIF) — in April in conjunction with the annual Campaign on Savings and Investing.

The program was developed by the California Department of Corporations and has been very effective in bringing the message of empowerment to seniors. Training seniors who then go out and spread the word, SAIF utilizes simple steps to help consumers spot and avoid fraud and help put a stop to fraud in their communities.

For more information on SAIF, or to have a program brought to your local senior center or senior group, please contact the Securities Department.

## Financial Literacy 2010 wraps up another successful year at Illinois schools

In 2004, Securities Department staff visited 38 schools, spoke to 162 classes, and brought the basics of savings and investing to 4,400 Illinois students through the Financial Literacy 2010 program.

The numbers are impressive, but the work is just beginning. Although Illinois requires coursework in consumer education for high school graduation, many high schools have shortened the length of time a student takes consumer education from a semester to a quarter. Consumer education, with a strong emphasis on credit and its use and how to save and invest, is the foundation to a secure financial future.

If you know of a school or teacher who may be interested in Financial Literacy 2010, please contact the Securities Department.

**Illinois Securities Department • 800-628-7937 • 888-231-1175 (Spanish line)**

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