

# Valley View Consultants, Inc.

## The STAR Plan<sup>®</sup>

March 30, 2010

### VVC Life Events Analysis and FINRA Regulations

The VVC Life Events Analysis utilizes “hypothetical illustrations of mathematic principles”, as defined by FINRA, of different financial and benefit plan structures as financial planning support calculations for registered representatives and their clients. Consistent with other hypothetical illustration calculators and reports, the VVC Life Events Analysis is not “sales material” and not an “investment analysis tool” requiring FINRA filing.

Following is a summary of current and proposed FINRA regulations pertaining to hypothetical illustrations. While VVC is a third party life insurance administrator and not a FINRA member, it is important that members are aware of VVC’s compliance with FINRA’s regulations.

#### Current Regulations

- Rule 2210(d)(1)D “A hypothetical illustration of mathematical principles is permitted, provided that it does not predict or project the performance of an investment or investment strategy.”
- IM-2210-6 defines “an ‘investment analysis tool’ is an interactive technological tool that produces simulations and statistical analyses that present the likelihood of various investment outcomes if certain investments are made or certain investment strategies or styles are undertaken, thereby serving as an additional resource to investors in the evaluation of the potential risks and returns of investment choices.”

The VVC Life Events Analysis complies with Rule 2210(d)(1)D and does not provide the simulations and statistical analyses defined in IM-2210-6 requiring FINRA filing.

#### Proposed Regulations

- Rule 2210(d)(1)D is replaced with Rule 2210(d)(1)F – Applicable language is unchanged.
- IM-2210-6 is replaced with Rule 2214 – Applicable language is unchanged.
- Proposed new Rule 2210(d)(4)C defines the requirements of “A comparative illustration of the mathematical principles of tax-deferred versus taxable compounding ...”
- Proposed new rule 2211(i) permits the use of investment analysis tools with variable insurance illustrations per IM-2210-6 (new Rule 2214). Proposed new rule 2211(i)(2) also states member must “employ an investment analysis tool that provides a personalized hypothetical illustration which reflects the maximum guaranteed charges.”

The VVC Life Events Analysis complies with proposed Rule 2210(d)(1)F, does not provide the simulations and statistical analyses defined in proposed Rule 2214, complies with proposed new Rule 2210(d)(4)C and the attachment of the registered representative’s FINRA compliant personalized hypothetical illustration as reference to all insurance values is consistent with proposed FINRA rule 2211(i)(2).

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## **Proposed new Rule 2210(d)(4)C**

(C) A comparative illustration of the mathematical principles of tax-deferred versus taxable compounding must meet the following requirements:

- (i) The illustration must depict both the taxable investment and the tax-deferred investment using identical investment amounts and identical assumed gross investment rates of return, which may not exceed 10 percent per annum.
- (ii) The illustration must use and identify actual federal income tax rates.
- (iii) The illustration also may reflect an actual state income tax rate, provided that the communication is used only with investors that reside in the identified state.
- (iv) Tax rates used in an illustration that is intended for a target audience must reasonably reflect its tax bracket or brackets as well as the tax character of capital gains and ordinary income.
- (v) If the illustration covers the payout period for an investment, the illustration must reflect the impact of taxes during this period.
- (vi) The illustration may not assume an unreasonable period of tax deferral.
- (vii) The illustration must disclose, as applicable:
  - a. the extent to which tax rates on capital gains and dividends would affect the taxable investment's return;
  - b. its underlying assumptions;
  - c. the potential impact resulting from federal or state tax penalties for early withdrawals; and
  - d. that an investor should consider his or her current and anticipated investment horizon and income tax bracket when making an investment decision, as the illustration may not reflect these factors.

The VVC Life Events Analysis incorporates all of the requirements of proposed Rule 2210(d)(4)C.