December 22, 2004

Mr. Fabrice Demarigny
Secretary General
The Committee of European Securities Regulators
11-13 avenue de Friedland
75008 Paris, France
www.cesr-eu.org

Dear Mr. Demarigny:

We are writing to you today on behalf of Massachusetts Mutual Life Insurance Company, New York Life Insurance Company and Pacific Life Insurance Company, three U.S.-based mutual life insurance companies, in response to the concept paper issued by CESR on October 21, 2004 outlining the suggested approach to assessing the equivalence of third countries GAAP and IAS/IFRS. Mutual insurance companies domiciled in the United States are required by their state insurance regulator to report on a comprehensive basis of accounting known as the United States Statutory Accounting Principles (U.S. SAP). We ask that you consider recommending U.S. SAP as an equivalent or as an acceptable form of accounting and reporting for U.S. mutual insurance companies wishing to list securities on EU-based exchanges. To assist in this review process, we have attached a paper describing U.S. SAP and summarizing the key differences between U.S. SAP and U.S. GAAP.

The European market has been an integral part of our companies' medium term note (MTN) programs since the late 1990s. Collectively, we have issued the equivalent of $8.2 billion in this marketplace and have conducted numerous one-on-one investor meetings and presented at conferences. We are confident that investors understand our creditworthiness and the U.S. SAP accounting standards used in our financial reports.

During the last several years, fixed income investors have become more focused on creating high quality, well diversified portfolios. We believe the introduction of and increased issuance of notes from U.S. based insurance companies has helped these investors achieve their goals. Through the time they have taken to understand both the business models and accounting standards as well as the amount of notes they have purchased, investors have demonstrated how important it is for U.S. based mutual insurance companies to continue to be able to issue notes into this market.

We thank the Committee for its consideration of this matter and look forward to working together with you in the near future.

Sincerely,

Norman A. Smith
Controller &
Chief Accounting Officer
Massachusetts Mutual
Life Insurance Company

John Cullen
Controller,
Chief Accounting Officer
New York Life
Insurance Company

Ed Byrd
Controller
Chief Accounting Officer
Pacific Life
Insurance Company

COMMITTEE OF EUROPEAN SECURITIES REGULATORS

EQUIVALENCE OF CERTAIN THIRD COUNTRY GAAP AND USE OF US INSURANCE STATUTORY BASIS ACCOUNTING

DECEMBER 2004

I. Introduction and Purpose

The Committee of European Securities Regulators (CESR) has received a mandate from the European Commission to assess equivalence of certain third countries' Generally Accepted Accounting Principles (GAAP) and International Accounting Standards (IAS), the purpose of which will be to determine if a third country's GAAP would be acceptable for filings under both the Prospectus Regulation and the Transparency Directive for non-European Union (EU) issuers on securities exchanges included in the EU. In its Concept Paper on Equivalence Of Certain Third Country GAAP And On Description Of Certain Third Countries Mechanisms Of Enforcement Of Financial Information Consultation Paper (the Concept Paper), the CESR identifies a number of countries' GAAP included in its consultation. However, omitted from its consultation is United States Statutory Accounting Principles (U.S. SAP) for Insurance Companies.

This paper will provide the reader with background and information about US SAP and request that CESR, in its development of technical advice to the European Commission, consider U.S. SAP as an acceptable basis of accounting for U.S. life insurance companies filing financial statements on securities exchanges subject to the requirements set forth above.

II. Background

U.S. SAP has been used by U.S. insurance companies to report their financial condition and results since the early 1900s. As discussed in greater detail below, U.S. SAP focuses on an entity's capital adequacy and thus its ability to satisfy its obligations to policyholders and investors. More recently, U.S. SAP has been utilized by insurance companies in connection with providing European and other international investors financial information to aid in their investment decisions.

Since the late 1990s, many insurance companies have issued debt securities through programs known as Funding Agreement Backed Note Issuance Programs, or "FANIPs." FANIPs are programs whereby an issuer offers debt securities, or notes, and securitizes the note with a funding agreement offered by a life insurance company. The funding agreement, whose terms match the terms of the note, is guaranteed by the insurance company, and ranks pari passu with policyholder claims. As such, the note carries a rating equal to the insurance company's financial strength rating, as assigned by internationally recognized independent rating agencies. FANIPs have been popular worldwide, including the European nations comprising the EU. Accordingly, many FANIPs are listed on exchanges that are subject to EU jurisdiction. FANIPs, in compliance with the various exchanges' reporting requirements, regularly supply insurance company financial statements and financial and other information in their offering documents. Historically, exchanges have allowed those financial statements to be prepared in accordance with U.S. SAP or United States Generally Accepted Accounting Principles (U.S. GAAP).

III. Statutory Accounting – Introduction

U.S. insurance companies are required to prepare financial statements and other key financial information in accordance with U.S. SAP for filing with the U.S. state insurance departments in which the company writes business. Required quarterly financial reporting is part of a comprehensive regulatory framework established by individual states' legislation and regulatory powers.

Purpose

As described above, U.S. SAP focuses on an insurance company's capital adequacy, which translates into its ability to satisfy the obligations of its policyholders, creditors and other investors. In addition, U.S. SAP generally provides a consistent basis of reporting to allow comparability among insurers throughout the insurance industry.

History

Historically, U.S. SAP was largely promulgated by individual state insurance departments and a group of state insurance commissioners (the National Association of Insurance Commissioners, or the NAIC[1]) in charge of formulating the reporting requirements found in the Annual and Quarterly Statements. These statements include, but are not limited to, balance sheets, statements of operations and cash flows. In the early 1990s, in an effort to improve accounting and reporting standards, the NAIC undertook a project to codify U.S. SAP as a comprehensive basis of accounting and to establish a governing body and process to ensure this codified accounting would continue to be relevant in light of changes in an evolving industry. In 2001, the NAIC published the Accounting Practices and Procedures Manual, a codified body of accounting literature and guidance. All US insurance companies are required to file quarterly and annual statements prepared in accordance with U.S. SAP, a codified comprehensive basis of accounting.

The NAIC's mission for U.S. SAP states in part:

> The mission… [is to] develop solutions to accounting problems with the ultimate goal of guiding insurers in properly accounting for various aspects of their operations … which affect the ability of regulators to determine the true financial condition of insurers.

Governing Bodies and Hierarchy

The main governing body of U.S. SAP is the NAIC and its Accounting Practices and Procedures Task Force. This Task Force is empowered to carry out the following initiatives:

[1] The NAIC was comprised of insurance examiners and commissioners representing about 20 to 30 of the 50 United States. Since codification, the NAIC comprises every state's insurance commissioner.

- Provide authoritative guidance to insurance regulators on current statutory accounting issues.
- Continue the evaluation, development and expansion of the U.S. SAP.

Similar to how the International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) in the United States operates, groups and interested parties may bring accounting issues to their attention for consideration and authoritative guidance. A variety of working groups are established to facilitate issues brought to the Task Force.

U.S. SAP utilizes a framework established by U.S. GAAP with a hierarchy of guidance that allows U.S. SAP to achieve certain objectives exclusive to itself. The hierarchy of accounting and reporting guidance for U.S. SAP is shown in Appendix I.

Audience – Users of Statutory Basis Financial Statements and Reports
The principal users of statutory financial statements are insurance regulators, ratings agencies, investors, and the United States Securities Exchange Commissions (SEC). Because of its focus on capital adequacy, U.S. SAP is particularly valuable to users concerned with the financial stability of the reporting entity. Those who particularly rely on U.S. SAP financial statements and related data include, but are not limited to, the following:

<u>Insurance Regulators</u>: Regulators' key focus is protecting contract holders, including those who have purchased funding agreements, and other debtors. In discharging their duty, regulators utilize U.S. SAP as a reporting basis to measure an insurance company's capital adequacy and ability to satisfy policyholder obligations. As described previously, regulators, in fact, were a driving force in the creation of U.S. SAP as a comprehensive basis of accounting. For over 10 years, regulators have required that an insurance entity's U.S. SAP basis prepared financial statements be audited no less frequently than annually. Independent accounting firms conduct those audits. Additionally, regulators examine the U.S. SAP financial statements and Annual Statement of an insurer no less than every five years.

<u>Rating Agencies</u>: Rating agencies are focused on insurance entities' ability to satisfy credit and financial obligations. Rating agencies consider a Company's U.S. SAP-based regulatory capital levels, as well as other factors, when assigning credit and financial strength ratings.

<u>SEC</u>: In the U.S., mutual insurance companies file statutory financial statements with their prospectuses and other documents related to their Variable Life and Variable Annuity products. Mutual life insurance companies are not required to prepare financial statements in compliance with U.S. GAAP. Under Regulation S-X Article 6 of the U.S. Federal Securities Laws [Reg. 210.7-02(b)], statutory accounting is set forth as an allowable method of reporting for U.S. mutual life

insurers that are required to file financial statements with the SEC. Specifically, the regulation states: "Financial statements filed for mutual life insurance companies and wholly-owned stock insurance company subsidiaries of mutual life insurance companies may be prepared in accordance with statutory accounting requirements."

Investors: Due to the focus on capital adequacy, debt investors have historically used U.S. SAP in analyzing insurance companies. Additionally, one component of the investment decision process often includes analyzing the available cash flows and liquidity of a company. Both U.S. SAP and U.S. GAAP have statements of cash flows.

IV. Principal Differences Between Statutory Accounting and U.S. GAAP

While U.S. SAP utilizes the framework established by U.S. GAAP, U.S. SAP attempts to determine, as of a financial statement reporting date, an insurer's ability to satisfy its obligations to its policyholders, contractholders and creditors. U.S. GAAP stresses measurement of emerging earnings of a business from period to period. Accordingly, certain significant differences between these two bases of accounting exist.

It should be noted that while certain differences currently exist between U.S. GAAP and IAS, those differences are being addressed as part of the Convergence Project between the U.S. GAAP governing bodies and the International Financial Reporting Standards Board to ultimately converge these two bases of accounting. Also, the differences between US GAAP and IAS are currently being considered as part of the CESR's equivalence project described in the introduction of this paper.

The major differences between U.S. GAAP and U.S. SAP are set forth in Appendix II. Although it is not a comprehensive list of differences, it does represent the more significant items impacting either equity, net income or both.

V. Rationale for Creditors / Debt Investors and Ratings Agencies to Prefer Statutory Basis Accounting

U.S. SAP balance sheet conservatism relative to U.S. GAAP is clearly evident when the reader takes into consideration the differences in accounting set forth in Appendix II. At the same time, creditors/investors often look beyond an entity's operating results to financial attributes including balance sheet strength, liquidity and ability to service existing debt. U.S. SAP provides creditors this information by focusing on an insurer's capital adequacy and provides for a more conservative means of determining the net worth of an insurance enterprise.

VI. U.S. SAP Provides the Four Characteristics Underlying IAS

CESR states that included in assessing an equivalent basis of accounting, that basis should be assessed against four characteristics as follows:

1. *Understandable:* An essential quality of information provided is that it is readily understandable by users with reasonable knowledge of business and economic activities. U.S. SAP is understandable. Like other comprehensive bases of

accounting, U.S. SAP requires presentation of basic financial statements and full footnote disclosure to assist the reader in understanding the financial position and results of the insurer. Included in those footnotes is a description of accounting policies underlying the rules and principles for preparing and presenting financial statements.

2. *Relevant:* Information is considered relevant when it influences the economic decisions of users by helping them evaluate the past, present and future events. U.S. SAP has long been used by regulators and ratings agencies (both described above) in evaluating the financial condition of insurers.
3. *Reliability:* Information has the quality of reliability when it is free from material error and bias and can be depended on by users. While U.S. SAP uses valuation methods and assumptions that are different than U.S. GAAP or IAS, those assumptions are clearly cemented in conservatism and adequately disclosed so as to provide relevant information to the user. The reliability of underlying assumptions and valuation methods is considered by independent auditors in their opinion as to whether audited statutory-basis financial statements present fairly the admitted assets, liabilities and capital and surplus of an insurer and its results of operations and cash flows.
4. *Comparable Information:* Users must be able to compare financial statements of an enterprise through time as well as against different enterprises. Because all U.S. insurers are required to prepare financial statements in accordance with U.S. SAP, all participants within this industry segment may be readily compared. While comparison amongst peers is a fundamental goal among all bases of accounting and reporting, analysts have long recognized the problems associated with comparing entities engaged in different industries or even different activities within an industry.

VII. CESR's Consideration of SAP as an Acceptable Accounting Basis

We recognize that U.S. SAP is not identical to either U.S. GAAP or IAS. However, we believe its focus on capital adequacy and balance sheet conservatism combined with the rigorous and rational approach to maintaining its reporting standards provide for a fundamentally sound and reliable framework for accounting and reporting.

As discussed throughout this paper, various U.S. securities, regulatory and rating agency bodies rely on U.S. SAP filings in order to evaluate the financial strength and creditworthiness of U.S. insurance companies. As the driving force behind the creation and monitoring of U.S. SAP, U.S. insurance regulators have implemented an effective and efficient mechanism to enforce the consistent and transparent reporting of financial results. Additionally, U.S. regulators require external auditors to audit these financials and opine on the reliability of these statements.

Finally, and of utmost importance, we would like to reiterate that U.S. and European investors have come to rely on U.S. SAP statements in order to make key investment decisions on a variety of fixed income financial instruments issued by U.S. insurance companies. The U.S. SAP accounting standard provides such investors with the same characteristics - understandable, relevant, reliable and comparable – as those underlying the IAS framework. While not identical to IAS or U.S. GAAP, the inherent conservative nature of U.S. SAP provides investors with a solid and consistent mechanism to analyze and monitor the financial strength and capital adequacy of an insurer.

In conclusion, we request CESR consider recommending U.S. SAP as an acceptable basis of accounting for U.S. life insurance companies filing financial statements on EU securities exchanges.

APPENDIX I: U.S. SAP GOVERNING BODIES & HIERARCHY

<u>Highest Level</u>

- Accounting practices permitted or mandated by a reporting entity's domiciliary state insurance department: The insurance commissioner of an insurance company's domiciliary state may provide a unique reporting provision for an insurance company based on very specific facts. Additionally, a state may have legislation that requires certain accounting and reporting be followed by a reporting insurance company. Permitted practices are not common but are useful insofar as they allow the insurance company to best reflect the financial results of a particular transaction or situation. Legislative accounting/valuation requirements, while generally conforming to US SAP, are present to allow a state insurance department or related regulatory body to address specific concerns.

<u>Level 1</u>

- The NAIC's Accounting Practices and Procedures Manual (The Code): The Code contains all the Statements of Statutory Accounting Principles (SSAPs), Interpretations of the Emerging Accounting Issues Working Group, Actuarial Guidelines, Issue Papers and Policy Statements. Statements of Statutory Accounting Principles (SSAPs) including US GAAP reference material as follows (category a, b, c):

    - Category a: FASB (Financial Accounting Standards Board) Statements and Interpretations, Accounting Principles Board's (APB's Opinions, the American Institute of Certified Public Accountants (AICPA) Accounting Research Bulletins.

    - Category b: FASB Technical Bulletins, AICPA Industry Audit and Accounting Guides and AICPA Statement of Positions.

    - Category c: Consensus positions of the FASB Emerging Issues Task Force Group.

<u>Level 2</u>

- Consensus positions of the Emerging Accounting Issues Working Group

<u>Level 3</u>

- NAIC Annual Statement Instructions.
- NAIC *Purposes and Procedures of the Securities Valuation Office.*

<u>Level 4</u>

- Statutory Accounting Principles Statement of Concepts.

<u>Level 5</u>

- US GAAP reference material below the category c in the US GAAP hierarchy

APPENDIX II: PRINCIPAL DIFFERENCES BETWEEN U.S. SAP & U.S. GAAP

Differences Affecting Shareholders' Equity and Statutory Capital and Surplus:

Item	Description	Affect
Acquisition Costs	• The costs of acquiring new business, whether commission payments or related underwriting and other costs, are expensed immediately when incurred under U.S. SAP. • When variable, those costs may be capitalized under U.S. GAAP and amortized over the life of the business written.	The result is U.S. SAP presents a ***lower*** surplus or equity amount than U.S. GAAP.
Policyholder Reserves	• Policyholder reserves are valued using statutorily defined valuation methods and bases that generally utilize conservative interest and mortality assumptions for U.S. SAP. • U.S. GAAP reserves are established based on the present value of expected future payments using current assumptions that take into consideration, as applicable, interest rates, mortality, morbidity, retirement age and expenses.	The result is U.S. SAP surplus or equity could be ***higher or lower*** than U.S. GAAP. ***Note that when the impact of acquisition costs and policyholder reserves are combined, U.S. SAP produces a lower surplus or equity amount than U.S. GAAP.***
Bonds	• U.S. GAAP characterizes bonds at market value. • U.S. SAP utilizes amortized cost.	The result is U.S. SAP could present a ***lower or higher*** surplus or equity amount than U.S. GAAP.
Deferred Income Taxes	• The determination of deferred income tax balances using U.S. SAP and U.S. GAAP are similar. • However, U.S. SAP contains rules that limit the admissibility of deferred tax assets to both a percentage of an insurer's total surplus as well as taking into consideration if a deferred amount will be realized within one year.	The result is U.S. SAP presents a ***lower*** surplus or equity amount than U.S. GAAP.
Interest Maintenance Reserve	• U.S. SAP provides that any realized capital gains or losses recognized at the disposal of a fixed income investment be deferred if that gain or loss is the result of changes in interest rates from the time of purchase of the security to its disposal. • Those resulting deferred gains/losses are amortized generally over the original life of the asset disposed. • In the event that deferred losses exceed deferred gains, those losses are non-admitted, or charged against surplus.	The result is U.S. SAP presents a ***lower*** surplus or equity amount than U.S. GAAP.
Asset Valuation Reserve	• The asset valuation reserve (AVR) is determined by a formula applied to investments based on their risk characteristics/ratings as determined by the NAIC and the NAIC's Securities Valuation Office. • That formulaic approach includes applying factors to securities' book values based on a rating in the determination of a 'reserve' for the entity's portfolio of investments. • Additionally, the AVR bases its reserves for a mortgage loan portfolio on the entity's default/loss experience relative to others in the industry in addition to using a factor approach, thereby requiring higher reserves from companies with riskier mortgage loan portfolios. • In contrast, under U.S. GAAP, bond and mortgage loan investments are written down when their value is considered to be other than temporarily impaired.	The result is U.S. SAP typically presents a ***lower*** surplus or equity amount than U.S. GAAP.
Surplus Notes	• Surplus notes are debt instruments issued by insurance companies. • All payments of interest and principal are subject to the prior approval of U.S. state insurance regulators. • U.S. GAAP requires these notes to be recognized as liabilities similar to other debt issued by a company. • U.S. SAP presents surplus notes as a component of surplus.	The result is U.S. SAP presents a ***higher*** surplus or equity amount than U.S. GAAP.

Item	Description	Affect
Other Comprehensive Income	• Under U.S. GAAP, other comprehensive income includes unrealized gains and losses on derivatives and securities available for sale and minimum pension liability adjustments. • U.S. SAP does not include provisions for other comprehensive income.	The result is U.S. SAP could present a ***higher or lower*** surplus or equity amount than U.S. GAAP.
Non-Admitted Assets	• Certain assets, generally considered to be of limited future value or having liquidity issues that would preclude the insurer from easily disposing of them to satisfy obligations are charged to surplus as acquired. • Examples include furniture and equipment (excluding certain EDP equipment). • U.S. GAAP allows those assets to be capitalized and depreciated over their useful lives.	The result is U.S. SAP presents a ***lower*** surplus or equity amount than U.S. GAAP.
Subsidiaries & Consolidation	• Subsidiaries are not consolidated under U.S. SAP. • Rather, their net equity value is carried as an investment on the insurer's balance sheet adjusted for the other items noted above, such as non-admitted assets.	The result is U.S. SAP could present an ***equal or lower*** surplus or equity amount than U.S. GAAP.

Differences Affecting net income:

Item	Description	Affect
Acquisition Costs	• The costs of acquiring new business, whether commissions or related underwriting and other costs are expensed immediately when incurred under U.S. SAP. • Those costs may be capitalized under U.S. GAAP and amortized over the life of the business written.	The result is U.S. SAP presents a ***lower*** net income than U.S. GAAP under the assumption that the insurer is writing new commissionable business (an ongoing business concern).
Derivatives Mark to Market	• Under U.S. GAAP, the mark to market of derivatives flows through the income statement as a change in realized gain (loss), while under U.S. SAP it flows through as change in unrealized gain (loss).	The result is U.S. SAP could present a ***lower or higher*** net income than U.S. GAAP.
Earnings of Subsidiaries	• Under U.S. GAAP, subsidiaries' results are consolidated in consolidated financial statements. • U.S. SAP does not consolidate subsidiaries' results, rather the change in value of a subsidiary is reflected in the surplus of the insurer.	The result is U.S. SAP would present a ***lower*** net income than U.S. GAAP under the assumption that the insurer's subsidiary reports net income.
Policyholder Reserves	• Expenses for changes in reserves may be higher or lower under U.S. SAP or U.S. GAAP depending on the requirement for establishing the reserve. • Since U.S. SAP reserves are not the same of U.S. GAAP, the change in reserves could be greater or lower than under U.S. GAAP.	The result is U.S. SAP could present a ***lower or higher*** net income when compared to U.S. GAAP.
Deferred Income Taxes	• Since deferred income taxes result from differences between an insurer's tax expense and tax liability, and the effect of the change in deferred income taxes could be the result of non-admitting a deferred tax asset, it is not possible to conclude the impact of the difference between US SAP and US GAAP with respect to deferred taxes and the income statement. However, it is important to recognized that differences exist.	