

# Wyoming Secretary of State

Max Maxfield  
Secretary of State



Patricia O'Brien Arp  
Deputy Secretary of State

September 9, 2008

Nancy M. Morris, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

VIA E-MAIL

**RE: Proposed Rule Comment; File Number S7-14-08  
Indexed Annuities and Certain Other Insurance Contracts**

Dear Ms. Morris:

As Wyoming's Secretary of State and Securities Administrator, I am writing in support of the Securities and Exchange Commission's proposed Rule on Indexed Annuities and Certain Other Insurance Contracts.

Wyoming's Uniform Securities Act, like many other Uniform Act jurisdictions, excludes "any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in lump sum or periodically for life or for some other specified period." Further, Wyoming Statute mandates that the Insurance Commissioner has sole jurisdiction over regulation of all annuity products.

Equity Index Annuities are being marketed to Wyoming residents without regard for the complicated, long term, illiquid nature of the investments. This is especially true in several cases where Equity Index Annuities were sold (allegedly inappropriately) to senior citizens.

*For instance: An 85 year old woman from Cheyenne, Wyoming came to my office with concerns about an Equity Index Annuity that she was sold in 2006. She was chastised by an Insurance Agent for having her money in the stock market and was subsequently convinced to liquidate \$50,000.00 from her stock account, which was performing well, and place the funds into an Equity Indexed Annuity with a guaranteed 2.8% rate of interest.*

Lacking jurisdiction over Equity Index Annuities, my office had to refer her to the Wyoming Insurance Department and found they have no direct jurisdiction over the sale of the annuity product. Their regulation is not designed for protection of investors against sale of unsuitable products.

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The economic reality of the transaction begins to look like generation of higher than average sales commissions for the Equity Index Annuity product at the expense of an 85 year old woman who did not need the annuity. These are the sorts of practical sales practice concerns pervasive in Equity Index Annuity sales.

I support the Securities and Exchange Commission's efforts to bring Equity Index Annuity within the federal definition of a security. I especially like the proposed rule because:

- It will require mandatory disclosure of material terms, fees and risks through regulation of the investment in a fashion required of all other investments.
- It requires those persons selling the annuity investments to be licensed as securities representatives in the same fashion as all other persons selling investments.
- The rule would impose antifraud and suitability standards on the sale of these investments in a fashion similar to that imposed on the sale of other investments.
- Finally, the rule proposes sanctions for abusive sales behavior to protect investors. The SEC has a long and distinguished record of aggressively enforcing against abuses allowing fair and reasonable business to thrive.

I encourage the SEC to pursue the proposed rule.

Sincerely,

A handwritten signature in black ink that reads "Max Maxfield". The signature is written in a cursive, flowing style.

Max Maxfield  
Secretary of State

MM:mlt