



*Independent Insurance Agents*

*Brokers of America, Inc.*



August 28, 2008

Florence E. Harmon  
Acting Secretary  
United States Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Attn.: File No. S7-14-08 / Proposed Indexed Annuities Rule**

Dear Ms. Harmon:

In response to the proposed regulation referenced above, the Independent Insurance Agents and Brokers of America (IIABA) submits the following comments. IIABA is the largest association of insurance agents and brokers in the United States, and a significant number of our members sell life insurance and annuity products (including equity-indexed annuities) and would thus be directly affected by this proposal. Although we strongly oppose the rule, we appreciate having the opportunity to comment on these important issues and thank you in advance for your consideration of our perspective.

IIABA believes the Commission's proposal to subject indexed annuity products to federal regulatory oversight is unwarranted and counterproductive, and we urge you to withdraw the unnecessary draft rule. The rule, which would exclude indexed annuities from the current definition of "annuity contracts" under the Securities Act of 1933 and analogize indexed annuities to variable annuities, ignores the fact that indexed annuities are a form of fixed annuity that ensures a minimum guaranteed rate of return. The Commission argues that buyers of indexed annuities are subjected to "significant investment risk" and that the purchasers of these products are motivated by the "prospect of investment growth," but the reality is that indexed annuities are savings and financial protection vehicles for the consumers who purchase them. As with other fixed annuities, there is simply no risk to principal (barring the surrender of the annuity) and a guaranteed rate of return regardless of whether the stock market produces positive returns. In short, indexed annuities are insurance products – not securities – that protect principal, offer a guaranteed amount of return over the length of the contract, and provide the traditional benefits of fixed annuities.

The sale of indexed annuities has expanded dramatically in recent years (due in large part to the appealing guaranteed nature of the product), and, as with nearly every type of financial services product, there have been examples of troubling sales practices. These problematic activities, however, are not the norm, and appropriate and meaningful actions are being taken by state insurance regulators to prevent misleading and fraudulent activities and punish those who engage in them. Among the financial services sectors, insurance regulators have developed a well-

earned and unparalleled reputation in the consumer protection arena, and there is no reason to believe that federal oversight will be more effective or responsive than state oversight or a system of dual (and potentially conflicting) regulation. Federal regulation, in this and other contexts, does not necessarily produce better regulation.

The rule not only fails to provide clear benefits to consumers, but the unnecessary imposition of federal oversight will actually reduce competition and responsiveness to consumer needs while imposing significant costs on the private sector. In addition, the notice does not adequately consider the effects of this proposal upon state licensed insurance producers who currently engage in the sale of indexed annuities. Insurance agents will be forced to become licensed as registered representatives or cease selling these products altogether, and those individuals willing to complete the additional regulatory process will also be forced to associate with a broker-dealer (who may impose contractual terms, conditions, and sales quotas that make it practically impossible to continue to sell indexed annuities). These licensing hurdles, unprecedented compliance obligations and costs, and marketplace realities all suggest that there will be fewer individuals available to sell these products, which will inevitably produce less competition and result in consumers being less ably served by their insurance advisors.

Finally, we also echo the suggestion made by the National Association of Insurance Commissioners, the National Conference of Insurance Legislators, and other private and public sector voices that the comment period be extended to ensure that interested parties have ample opportunity to consider and respond to the proposal. The draft rule would have broad consequences if implemented, and it is fair and appropriate that a measure of this magnitude be thoroughly vetted before adoption. We also see no reason to believe why this rule would be consistent with the previously expressed intent of Congress, and lengthening the comment period would enable the Commission to receive input from Members of Congress.

In conclusion, we thank you for the opportunity to submit these initial comments and urge you to reconsider the promulgation of the proposed rule.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Charles E. Symington, Jr.", with a stylized flourish at the end.

Charles E. Symington, Jr.  
Senior Vice President, Government Affairs