July 11, 2008

Secretary, Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. S7-14-08, rule 151A

Dear Sir or Madam:

This letter is in reference to file number S7-14-08 regarding the Securities and Exchange Commission's (SEC) desire to reclassify equity index annuities a security. I have had a unique experience that relates to this industry and therefore to the topic this rule addresses. I started my career in the insurance and investment business in 1991 and was a financial planner and stock broker for most of the following 12 years with firms like IDS/American Express and Morgan Stanley Dean Witter. Five years ago in 2003, I became a partner and Senior Vice President of Forward Strategies Insurance Brokerage, a small insurance marketing company in Tucson Arizona. My experience since 1991 has given me the opportunity to see sales and marketing as well as compliance efforts from both sides of this debate. I appreciate and applaud the efforts of the SEC in their desire to safeguard consumers; however that effort should be done in a fair and accurate way, arriving at conclusions based on sound and accurate information. With that in mind, I would like to offer some comments on several of the factors the SEC published in their proposal and therefore the basis for their recommendation.

The first statement I would like to comment on is at the end of page 5 in section I of the proposal. It states:

Indexed annuities are attractive to purchasers because they promise to offer market-related gains. Thus, these purchasers obtain indexed annuity contracts for many of the same reasons that individuals purchase mutual funds and variable annuities, and open brokerage accounts.

Forward Strategies has spent countless days training and educating agents on how index annuities work and the reasons consumers purchase index annuities is exactly the opposite of the reasons they buy mutual funds, variable annuities and open brokerage accounts. It is true that index annuities are attractive to many purchasers. However, it is not for the reasons stated above. The primary reason index annuities are purchased is a combination of the underlying guarantee of principal combined with the minimum rate of return offered by these contracts along with a potential higher return linked to an index. Without the first two components of this equation, these products would not be attractive and would not be offered through insurance carriers. The statement that these contracts are purchased for many of the same reasons that individuals purchase mutual funds and variable annuities in my experience is not accurate.

The second statement that caught my attention is also in section I of the proposal and states:

When the amounts payable by an insurer under an indexed annuity are more likely than not to exceed the amounts guaranteed under the contract, the majority of the investment risk for the fluctuating, equity-linked portion of the return is borne by the individual purchaser, not the insurer. …The federal interest in providing investors with disclosure, antifraud and sales practice protections arises when individuals are offered indexed annuities that expose them to securities investment risk. Individuals who purchase such indexed annuities assume many of the same risks and rewards that investors assume when investing their money in mutual funds, variable annuities, and other securities.

This portion of the proposals basis suggests that because there are potential increases in an index annuity based on a link to an index that there is "risk" in the contract borne by the client. I believe it is

difficult to come to this conclusion without changing most people's definition of the word "risk". Webster defines risk as:

Risk - Possibility of loss or injury. The chance that an investment (as a stock or commodity) will lose value.

If an insurance company purchases a bond, stock, option, derivative or any other investment that helps them determine the return for their clients (which they do on all fixed annuities), all while guaranteeing the clients principal and a guaranteed return regardless of the outcome of this investment, how is this putting risk on the client's shoulders? If the option expires worthless, what has the client lost? Nothing! The insurance carrier however, has lost the cost of the premium on the option and continues to bear the risk of the contracts guarantees and underlying guaranteed interest. This is no different from how traditional fixed annuities have been built for years.

This section of the proposal is making the claim that because the client might not earn interest above the minimum guarantee, they are taking risk. In 17 years of working with insurance and investments I have never heard a financial professional define risk to a client this way. Risk, in my experience is presented based on potential loss of principal, not loss of potential gains above a minimum baseline. Furthermore, this definition would include most other life insurance products on the market today as well as flexible or bump up certificate of deposits offered at many banks.

Take universal life insurance as an example. A universal life insurance proposal and policy will always include a guaranteed column and a current or non-guaranteed column that shows how the policy may grow over time. Because the client may only earn the minimum rate on his life insurance policy, does this mean the policyholder is taking "risk" of not earning the current or non-guaranteed rate? If the definition used above holds true then Universal Life insurance would appear to be one step away from being made a security.

The third statement I will mention in this comment is also found in Section I and it states:

…a fundamental difference between these securities and indexed annuities is that – with few exceptions – indexed annuities historically have not been registered as securities.

This statement does not fit at all with the structure of an index annuity. How, in an educated and honest debate can it be stated that the only fundamental difference between an index annuity and a stock, mutual fund or variable annuity is that it is not registered as a security? The reason that index annuity sales have been so robust is exactly because the opposite is true. Index annuities offer features and benefits that stocks, mutual funds and variable annuities do not. For instance:

1. Guarantee of clients principal
2. Guarantee of minimum interest
3. Guaranteed future lifetime payout if desired
4. Guarantee of future value based on minimum rate schedule
5. Guarantee of full accumulation at death (most contracts)
6. Deferral of interest

Now, it could be argued that the above six examples are the "few exceptions" referred to in Section I of the proposal, but if that is the case, then those "few exceptions" would seem to draw a marked line in the sand that shows the vast difference between an index annuity and the products it was compared to being "like".

The fourth and final statement I will comment on regarding this proposal is:

…most purchasers of indexed annuities have not received the benefits of federally mandated disclosure and sales practice protections.

While it is true that most purchasers of indexed annuities have not received the benefits of "federally" mandated disclosures. It must be noted that the carriers themselves as well as individual states and the National Association of Insurance Commissioners (NAIC) have taken this responsibility very seriously and the applications, suitability forms and disclosures filled out today along with the compliance efforts at carriers have become very stringent. The idea that "federally" mandated protections that offer the same disclosures and suitability standards would somehow increase protection is arguable at best.

In conclusion, there is much more that could be written regarding the proposal to reclassify index annuities as securities which would be worthy feedback. However, my focus here was specific to the basis of why the rule was being proposed in the first place. If the basis is not accurate, then everything that follows is faulty which I believe is the case here.

Sincerely,

Kelly R. Kleinsasser, CLU
Senior Vice President
Forward Strategies Insurance Brokerage