September 3, 2008

To Whom It May Concern at the SEC:

I am a licensed insurance professional as well as a securities licensed professional (Series 7 and 63). I believe that Rule 151A should not be adopted and that Indexed Annuities should not be classified as securities for the following reasons:

1. The annuities have guarantees. There can be no negative return unless the client surrenders a policy early or withdraws money in excess of policy guidelines.

2. The indexed annuity is part of an insurer's general account and is protected under the applicable state guaranty fund limits.

3. If there are issues with excessive surrender charges or surrender periods the product can be regulated by the state insurance departments.

4. State insurance laws are being changed to provide greater consumer protection regarding products and the sales process. Model NAIC legislation has already been created to address SEC concerns and is an on-going topic of discussion and concern with the states.

5. Proposed Rule 151A is so broadly drafted that traditional life insurance and fixed annuity products could be ensnared by the loosely drafted definitions. Indexed annuities are simply another measuring device to create a positive return for clients who are risk-averse.

6. In attempting to define indexed annuities as securities via Rule 151A, the SEC has created the appearance of a power grab for financial products with guarantees. Instead of working with State regulators and interested industry parties to fix the problems which may exist, the SEC has drawn a line in the sand and asked for a fight. This behavior is short-sighted and does not benefit you, the public, the States, or the insurance industry long-term.

Sincerely,

Robert O. Smith

Robert O. Smith, J.D., CLU, ChFC, LIC