



To Whom It Concerns,

September 3, 2008

Fixed Indexed Annuities (FIAs) are excellent products that give consumer guarantees, flexibility, tax-deferral and many other advantages. While FIAs are not for everyone, sales of these innovative products have soared in recent years because they give consumers a unique combination of guaranteed protection and opportunity for higher accumulation than traditional fixed annuities.

The SEC's draft regulation (rule 151A) adds an unnecessary layer of securities regulation to this insurance product. Rule 151A would turn most FIA products—as well as some non-indexed fixed annuities—into securities. This will have far-reaching consequences by disrupting the manner in which these products are sold today. Thus, causing confusion over the differences between insurance versus securities and providing little additional consumer protection at tremendous cost to companies, agents and ultimately clients.

Proposed rule 151A is ill-conceived. Many securities lawyers find the SEC proposal to be confusing and completely unsupported by judicial precedents on what makes an “annuity” exempt from securities laws. Beyond that, it defies common sense that a product which has virtually no market-related downside risk should be considered a security in the same manner as mutual funds or variable products which the investor bears the risk for market losses. Many observers think the SEC's proposed regulation—if adopted—is a slippery slope towards reclassifying many other annuity products as securities. This seems at odds with the Congressional intent.

FIA products are heavily regulated by state insurance departments. Through the NAIC, state regulators have worked hard over many years to come up with appropriate suitability and disclosure requirements for FIA products. To the credit of state insurance regulators, this work continues today and should not be derailed by the SEC's unilateral action.

Criticisms of FIAs have been exaggerated and market abuses have been largely corrected. The SEC—along with other critics—have focused on abuses in the marketing of these products. Needless to say, there are abuses in the marketing of all financial products, including many that are already regulated by the SEC. The fact is the FIA market has grown rapidly because there is a demand for these products and generally consumers have been pleased with the results. While there have been some inappropriate sales (as with any innovative product) those concerns have been largely addressed by new regulations and the evolution of FIAs (e.g. lower surrender charges, shorter surrender periods). FIA products and the FIA marketplace will continue to evolve to meet consumer needs despite efforts by critics to paint the entire industry with one brush.

The SEC proposal has not been appropriately vetted for comment—and appears to be rushed for adoption. With virtually no forewarning, the SEC unveiled this proposal on June 25 and has allowed for comments only until September 10. This means a proposal with profound effects on the insurance industry could become law within just a couple of months even though agents and insurers have had minimal opportunity to evaluate, comment and possibly offer alternative approaches to address any valid concerns. This sudden action comes ten years after the SEC first identified issues left dormant as the FIA market grew and evolved. Fair play demands that a proposal of this magnitude not be rushed or adopted hastily.

Requiring insurance agents to obtain a securities license so they can continue to market indexed annuities and make a living would be like requiring veterinarians to study human anatomy to keep their ability to make a living. I personally passed the securities licensing test and know the effort required to do so. I understand the content of the test material. It is not required to inform the public about indexed annuities. The insurance industry is requiring education of their agents related to indexed annuities. There is not a need for more government and regulatory agencies to duplicate this needed endeavor.

It needs to be understood annuities are insurance. There are no A, B, or C shares related to mutual funds. There are no dividends related to stock. There are no management fees. The consumer's money is not invested in the market. The consumer's money has guarantees based on the financial ratings of the insurance companies.

After 12 years in the financial services industry I'm of the mindset we can simplify things related to the public's perception of whom they are receiving information from. It should be communicated to the public if they are working with an agent, they are receiving counsel from a product vendor... if they are receiving counsel from a financial advisor, they are receiving counsel from a person who has accomplished minimal specific educational requirements, giving them that distinction to include the accountability of placing the client's interest first. Period. Any other distinctions of additional educational accomplishments above and beyond the minimal requirements of a financial advisor will distinguish those within the group of financial advisors.

I ask you to keep the securities industry separate from the insurance industry. I ask you not to force insurance agents to become financial advisors and planners. Doing so will create a completely new bunch of challenges within the financial services industry. At a minimum, my hope is you will understand there needs to be more time to evaluate this proposed rule.

Sincerely,

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