INDUSTRIAL ALLIANCE PACIFIC
INSURANCE AND FINANCIAL SERVICES

August 27, 2008

Mr. Christopher Cox
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Proposed Rule 151A – Equity Indexed Annuities

Dear Chairman Cox:

Industrial Alliance Pacific Insurance and Financial Services, Inc., (IAP) is a small life and annuity company domesticated in Washington with an office in Arizona. Our sales are all handled through independent brokerage general agencies. The proposed Rule 151A on Equity Indexed Annuities would place a huge burden on our small independent agents, most of whom are not registered representatives. In order to continue to sell our products if this rule passes, we would have to completely redo our product line (all fixed not variable, products), add to our staff in marketing, sales, compliance, accounting and contracting and licensing. Many of our employees as well as our producers and their staffs would be required to obtain registered representative certifications. The state Departments of Insurance review and approve each of our products, to follow their individual state regulations.

In *S.E.C v. VALIC* (1959), the court decided the answers to two key questions:

1) Can the holder of an annuity look forward to a fixed monthly or yearly amount upon annuitization; and
2) does the insurer bear the risk of the product underperforming?

If the answer to both questions is yes, the product is a fixed annuity and exempt from registration. If the answer is no to **either** question, the product is a variable annuity. In the case of equity indexed annuities, the answer to **each** of the above questions is yes. Therefore, the court opinion mandates that these products be exempt from registration.

A PARTNER YOU CAN TRUST

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The SEC proposed regulation includes some inaccurate statements. For example:

> *Individuals who purchase indexed annuities are exposed to a significant investment risk – i.e., the volatility of the underlying securities index. Insurance companies have successfully utilized this investment feature, which appeals to purchasers not on the usual insurance basis of stability and security, but on the prospect of investment growth. 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 (page 5 - Executive Summary).*

Individuals who purchase indexed annuities are NOT exposed to an investment risk. Investment risk has been adjudicated in specific reference to an index annuity. (Malone v. Addison Ins. Marketing, (W.D. KY 2002). The underlying guarantees in an indexed annuity are similar to those in a traditional declared rate fixed annuity. Excess interest is credited to an index annuity based on a guaranteed formula which is linked to an outside index as spelled out in the contract. All contracts are approved by the state Departments of Insurance before the citizens of the states can purchase them. The consumer thus:

- is protected by the state department of insurance approval process,
- does not own shares in any security, and
- their account value does not fluctuate based on market volatility.

The consumer's funds are not held in a separate account; premiums are placed into the general account of the insurance company. The consumer is rewarded if the market performs well but is not penalized if the market takes a downturn. It is inaccurate to state a purchaser of an indexed annuity may suffer investment risk. IAP and other insurance companies have developed solutions promoting this benefit to consumers, which appeals to them based on the familiar insurance foundations of stability and security. Indexed annuities are attractive to purchasers because they promise the potential to exceed traditional fixed interest rates without exposing principal (or past interest credits) to market risk. Thus, these purchasers obtain fixed indexed annuity contracts for many of the same reasons that individuals purchase non-securities products such as certificate of deposits and traditional fixed annuities.

The Executive Summary continues:

"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 individual underwrites the effect of the underlying indexes performance on his or her contract investment and assumes the majority of the investment risk for the equity-linked returns under the contract". (page 6)

Individuals who purchase Fixed Indexed Annuities do NOT assume any of the same risks and rewards that investors assume when investing in mutual funds, variable annuities and other securities. For example, the purchaser of an index annuity does not have a separate account which fluctuates based on the market's movement. The purchaser's experience is much more consistent with the benefits of a savings vehicle for that is what a Fixed Indexed Annuity is. Indexed Annuity purchasers do not experience a loss in value due to negative market fluctuations. Indexed Annuity owners do not experience a gain equal to the positive fluctuation in a market index, however, once interest is credited to an indexed annuity, it can not be reduced due to market volatility.

A decision to enact this proposed rule will have far-reaching ripple effects within the industry, causing many companies to stop offering this product, and having a financially damaging effect on the company, their producers, employees, and customers. The rule will thus reduce competition and harm consumers as there will be fewer, more complex, vehicles through which to invest for a secure future.

On behalf of IAP and its' producers, I request that you not enact proposed rule 151A. If you need any additional information, please contact me directly. You may reach me via fax at 480-563-0252, email at mike.stickney@iaplife.com, or via phone at 480-473-5542. Thank you for your time.

Sincerely,

Michael L. Stickney
Executive Vice President
U.S. Development

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