September 7, 2008

Via email to rule-comments@sec.gov

The Honorable Christopher Cox
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Subject: Comments on Proposed Rule 151A on Fixed Index Annuities

Dear Chairman Cox:

I am writing to you about the proposed rule 151A on fixed index annuities. I oppose the adoption of the proposed rule 151A by the SEC and ask for an extension of the comment period for several reasons.

1. **Unnecessary**:

   I strongly believe that the proposed rule is unnecessary. The security regulation will add little benefits to consumer protections not already provided by state insurance regulation. There are significant protections afforded all Indexed Annuity purchasers through state mandated disclosure and sales practices.

   Many states have already adopted the NAIC (National Association of Insurance Commissioners) Annuity Disclosure Model Regulation and most of the major index annuity carriers have mandated the use of a disclosure statement describing all important terms and conditions of the annuity contract, including prominent disclosure of surrender charges. Many major indexed annuity carriers conduct suitability reviews of all sales in all states. Suitability reviews required of brokers under FINRA rules would not add any meaningful protections over and above what is already being done.

   In addition, consumers will lose a far superior complaint resolution process should this rule be adopted. Consumers receive rapid responses from local state insurance departments when they file a complaint. In most cases, companies and agents must provide a written response within 10 business days of an insurance department inquiry. Purchaser complaints are routinely resolved in 30 days. This is largely due to the extensive and aggressive follow up provided by the insurance department in each state. If necessary, a purchaser can meet personally with a department of insurance representative to help them resolve any complaint. The process for complaint resolution within the SEC will be dramatically slower, more complex and more costly for the consumer. They may be subject to the cost of legal representation and the delays of litigation. If a consumer complains and their broker denies wrongdoing, the consumer has no options other than costly litigation. All of this can be avoided completely through the state regulatory model within the department of insurance.

2. **<u>Eliminate Competition, Reduce Consumer Access and Increase Cost</u>**:

If this rule is adopted, the distribution of the product will transfer from existing traditional insurance firms to Broker Dealers. In essence the regulation will eliminate the competition to the benefit of the Broker Dealers only. This will reduce access to Fixed Indexed Annuities so that they will only be available to individuals who open a brokerage account and only if the Broker Dealer they are with offers the product. **Increased costs to the insurance companies as a result of this rule change will be passed onto the consumer further diminishing their value.**

3. **<u>Indexed Annuities are Fixed Annuity, not Security Product</u>**.

Indexed Annuity are fixed annuities that, like traditional declared rate fixed annuities, guarantee a minimum interest crediting rate and provide the opportunity to earn interest credits in excess of that guarantee. With a traditional fixed annuity, the crediting of excess interest depends upon the performance of the company's overall investment portfolio. Similarly, an indexed annuity provides the opportunity for excess interest credits based on the performance of a market index. While both products expose the consumer to fluctuating levels of annual excess interest credits, in both cases **the consumer has no risk of loss** (unless the policy is surrendered during the surrender period in which case a surrender charge may apply). The surrender charge is similar to Certificate of Deposit's early withdraw penalty. The surrender charges are fully disclosed to the purchaser. The indexed annuity offers the consumer a strong minimum guarantee backed by the insurance company along the opportunity to earn excess interest higher than traditional principle-protection products.

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.

Individuals who purchase Fixed Indexed Annuities do <u>NOT</u> assume any of the same risks and rewards that investors assume when investing in mutual funds, variable annuities and other securities. Buyers of index annuities receive benefits more consistent with those of a savings vehicle, and that is what a Fixed Indexed Annuity is.

Therefore, it is inaccurate to state in the SEC document that the purchaser of an index annuity may suffer investment risk. In fact, the design of fixed index annuities specifically allows individuals to avoid investment risk. The guarantees provided by an indexed annuity offer consumers significant protection against investment risk. The underlying guarantees in an index annuity are similar to those in a traditional declared rate fixed annuity. **The purchaser would not lose a penny even in a very violent market**, like 2000-2002 and this year. The DJIA has suffered a decline this year in excess of 20% from it Oct. 2007 record, yet a fixed index annuity purchaser does not lose any money due to such market performance, unlike a consumer of a variable annuity. The annuity interest crediting formula protects the owner against loss due to drops in the index over the crediting period.

4. Design and Sale of Annuities Are Highly Regulated by State

Both the design and sale of annuities are highly regulated by state insurance departments as are the companies who manufacture and sell them. State insurance regulations cover, among other things, suitability of insurance agent recommendations regarding annuities, annuity disclosure and advertising, agent licensing and training, unfair trade practices including misrepresentation of product terms and conditions, and enforcement actions and penalties for noncompliance with sales practices requirements. In addition, guaranteed minimum values for annuities are regulated through the Standard Nonforfeiture Law and are applicable to all fixed annuities.

Sales materials produced by each insurer are filed with the state along with a complete review of any product before the state permits the sale of the product within their borders. All Indexed Annuity purchasers not only receive full disclosure, each transaction is reviewed for its suitability to the individual purchaser.

The inherent safety of a Fixed Indexed Annuity combined with the authority of the state department of insurance to address allegations of violations provides a far superior platform for consumer protection. Therefore, the number of complaints linked to index annuities is a far smaller percentage of sales or transactions than the complaint rate for variable annuities which are considered a securities product. Unresolved complaints regarding index annuities is a tiny fraction of overall policies issued.

5. A Professional Insurance Agent is Well Equipped to Determine if a Specific Indexed Annuity is Suitable for a Particular Purchaser

This comes through regular training provided by the insurer and through many state mandated continuing education requirements. Both of which give an agent a better understanding of liquidity and income features available within this savings product. By properly planning and evaluating the purchaser’s needs, it is possible to provide a great deal of financial certainty through these products. Further, through the proper disclosure of surrender charges combined with the liquidity features, it is very likely that the purchaser will never unknowingly experience a surrender charge.

Thanks in advance for your consideration.

Sincerely,

Qin Yu, Ph.D.