

# *The Commonwealth of Massachusetts*

*Secretary of the Commonwealth*

*State House, Boston, Massachusetts 02133*

*William Francis Galvin  
Secretary of the Commonwealth*

September 10, 2008

Christopher Cox  
Chairman  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-0609

Re: Indexed Annuities and Certain Other Insurance Contracts  
Release Nos. 33-8933; 34-58022  
File No S7-14-08

Dear Mr. Chairman:

The Massachusetts Securities Division (the "Division") welcomes this opportunity to comment on the U.S. Securities and Exchange Commission's (the "Commission") Indexed Annuities Release. The release makes clear that indexed annuities will have the status of securities under the federal securities laws. The Division supports the proposal and applauds the Commission for taking this step to protect retail investors.

The Massachusetts Securities Division is a department within the Office of the Secretary of the Commonwealth of Massachusetts. The Securities Division is charged with the responsibility to implement and enforce the Massachusetts securities laws. As such, the Secretary of the Commonwealth is the chief securities regulator for Massachusetts.

## **The Securities Laws Should Apply to Indexed Annuities Because They Expose Investors to Securities Market Risks**

Indexed annuities are security-linked investments that expose purchasers to significant investment risk, because a purchaser's return depends on the performance of a securities index (most often an equity index, like the S&P 500). Investors are attracted to indexed annuities precisely because they promise market-related gains, along with a guaranteed "base" level of return. Investors choose these products for the same reasons that they purchase securities like mutual funds and open securities brokerage accounts. Both the characteristics of indexed annuities and the language and purposes of the securities laws clearly warrant the application of the securities laws to these products.

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**Marketing and Sales Practice Abuses Warrant the Application of the Securities Laws to Indexed Annuities**

As the Commission notes, there have been serious abuses in the sale and marketing of indexed annuities.

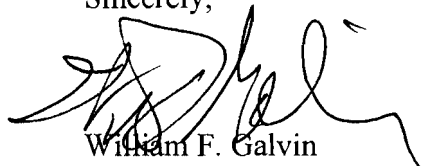
The Massachusetts Securities Division has received many complaints about aggressive and inappropriate sales practices in the sale of annuities, including indexed annuities. These practices have included educational seminars and “free” luncheons targeted toward senior investors. These seminars have frequently resulted in highly unsuitable sales to elder investors, who have had their funds tied up for lengthy periods in annuities with exorbitant redemption fees. These seminars have also involved misleading descriptions of the annuity products and of the qualifications of the annuity salespersons.

As the proposing release notes, indexed annuities often involve outside commissions and high surrender charges that are imposed over long periods. These products are highly complex, and in many cases important features are not properly disclosed to investors. As a result, we have seen serious instances of unsuitable sales to customers, as well as instances where customers’ portfolios were over-concentrated in these products.

Both the nature of index annuities and the ongoing problems in the sales of these products warrant the application of the securities laws. Investors in indexed annuities need the protection provided by the federal securities laws, including securities registration, selling person licensure, and the antifraud provisions. For these reasons, we strongly support the Proposal

Please contact me or Bryan Lantagne, Director of the Massachusetts Securities Division, at (617) 727-3548, if you have questions about these comments or I can assist in any way.

Sincerely,



William F. Galvin  
Secretary of the Commonwealth  
Commonwealth of Massachusetts