VIA ELECTRONIC MAIL to rule-comments@sec.gov

September 10, 2008

Secretary, Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Subject: File Number S7-14-08
Proposed Regulation,
Indexed Annuities and Certain
Other Insurance Contracts

Ladies and Gentlemen:

The National Association of Personal Financial Advisors ("NAPFA")[1] appreciates the opportunity to submit these comments in support of the Department's Proposed Regulation to regulate equity indexed annuities ("EIAs") as securities. As the leading national organization of fiduciary-only personal financial advisors, NAPFA's member often see the harm inflicted by inappropriate sales of these highly complex products to individual investors who are wholly unaware of the substantial commissions, fees and costs associated with these products.

[1] NAPFA has more than 2,000 members across the United States. All NAPFA-Registered Financial Advisors must submit a comprehensive financial plan and undergo a thorough review of their qualifications prior to admission. NAPFA-Registered Financial Advisors all sign a Fiduciary Oath which states that the advisor will only work in good faith and with the best interests of the consumer at heart. NAPFA-Registered Financial Advisors are strictly Fee-Only®, which means they do not accept commissions or any additional fees from outside sources for the recommendations they make to their clients.

Misleading Sales Practices Abound. On the basis of the experiences of NAPFA's personal financial advisors, when first meeting with individual investors who have previously been sold equity-indexed annuities, NAPFA concurs with comments of Karen Tyler, President of the North American Securities Administrators Association, when she stated:

> "Agents portray equity indexed annuities in very alluring terms, and because these products are so complex, most investors cannot look behind the sales pitch and assess the high costs and significant risks they actually entail … At the same time, these investments offer such generous commissions that agents are highly motivated to sell them, regardless of how unsuitable they may be for investors."

Furthermore, NAPFA believes that the Section 3(a)(8) exemption to the application of the Securities Act of 1933's requirements does not apply to EIAs.

First, NAPFA notes that its members have seen EIAs marketed for their investment characteristics primarily. Any insurance benefits which may be provided are ancillary to the main thrust of sales practices, which tend to illustrate EIA returns against those of other investment vehicles or security indices. Given the marketing of EIAs as alternatives to other investment vehicles, NAPFA believes that EIAs should not be afforded the Section 3(a)(8) exemption.

Second, NAPFA notes that under a functional analysis, in determining whether an investor's investment in an annuity is sufficiently protected by the insurer, in addition to the SEC's analyses of this issue another consideration comes into play. Because of the almost universal exclusion of reinvestment of dividends from the returns credited to the EIA contract, and because of the caps upon index returns, there exist substantial opportunity costs to the individual investor. The probability of the individual investor obtaining returns which are far below that of the index tracked by the EIA, over the long term, is a real and substantial risk.

Third, most EIA products do involve a risk of loss, in the first several (or much longer) years of the contract. This risk of loss is due to surrender charges. As an indication of the amount of risk involved, one NAPFA member reports reviewing the situation of an EIA sold to an 80-year old investor which possessed a 25% initial surrender fee, declining by 1% per year over a 25-year period. The surrender periods for this EIA contract even continued following the death of the owner / annuitant, and applied to the beneficiaries of the contract as well.

Increased Disclosures Suggested. NAPFA notes that state insurance regulation is primarily focused on the insolvency of insurance companies. While this is an important endeavor to protect individual investors, the degree of disclosure mandated by some states' insurance regulation of the fees, costs, and tax considerations regarding equity indexed annuity sales has at times been less than that which should be required. NAPFA believes that very specific disclosures should be undertaken in connection with the sale of any equity-indexed annuity product, given the complexity of the product, as a means of educating individual investors to whom these products are sold. The suggested disclosures are set forth in Exhibit A attached hereto.

Equity-Indexed Universal Life (EIUL) Contracts Should Also Be Regulated As Securities. NAPFA notes that the investment options found within variable universal life insurance contracts are subject to regulation as securities and hence subject to the same disclosures as found for investment options in variable annuity contracts. NAPFA believes that EIUL contracts should be subject to regulation as securities.

In recent years NAPFA members have observed abusive sales practices involving EIUL contracts. These include advice by the insurance agent to discontinue funding (or even de-fund) qualified retirement plan accounts and Roth IRA accounts in order to contribute funds to EIUL contracts. Moreover, far too many insurance agents have resorted to providing "financial advice" that the individual investor mortgage their home in order to undertake contributions to EIUL contracts. Similar to the problems seen with EIAs, the high fees and costs associated with sales of EIUL contracts are rarely, if ever, fully disclosed to the individual investor.

Accordingly, NAPFA urges the U.S. Securities and Exchange Commission to also regulate EIUL contracts as securities. Otherwise, insurance agents who promote often-inappropriate and/or misleading sales of EIA products will merely shift their marketing efforts to sales of EIUL products.

Again, the National Association of Personal Financial Advisors thanks the U.S. Securities and Exchange Commission for the opportunity to submit these comments. As the nation's leading organization of fiduciary and fee-only financial advisors, we are available to respond to questions or submit further comments as you may desire.

Respectfully,

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Chair, NAPFA	CEO, NAPFA	Chair, Industry Issues Committee

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EXHIBIT A: SUGGESTED DISCLOSURES, EQUITY INDEXED ANNUITY PRODUCTS

The Costs of Equity Index Annuities: Something To Watch Closely. The costs found in equity index annuity contracts can have a significant effect on the investment performance of the annuity contract. Equity index annuities that are sold by agents are likely to involve sales charges (which the issuer pays the agent and/or the agent's firm) and/or lengthy surrender fees (which the insurance company charges the annuity owner if he or she cancels the contract prematurely, and which are often utilized to compensate the insurance company for sales fees already paid to the sales agent and/or the agent's firm). If you purchase an equity index annuity, be certain to understand the withdrawal rules associated with any removal of funds from the annuity product.

Warning. What might be a suitable investment for one investor might not be right for another. Securities professionals must know their customers' financial situation and refrain from recommending investments that they have reason to believe are unsuitable. For example, variable and equity indexed annuities are often unsuitable for senior citizens because those products are generally long-term investments that limit access to invested funds. Make certain your investments match up with your age, your need for access to money, and your risk tolerance.

<u>**Disclosure of Returns Offered By Investment Options:**</u> For this product, the following are required disclosures:

Annualized Returns Over 1 Year (2007)			Annualized Returns Over 5 Years (Jan. 1, 2003-Dec. 31, 2007)			Annualized Returns Over 10 Years (Jan. 1, 1998 – Dec. 31, 2008)			Annualized Returns Over __ Years (equal to max. period for surrender charges)		
Annuity Option, No Surrender	Annuity Option, With Full Surrender After 1 Year	S&P 500 Index	Annuity Option, No Surrender	Annuity Option, With Full Surrender After 5 Years	S&P 500 Index	Annuity Option, No Surrender	Annuity Option, With Full Surrender After 50 Years	S&P 500 Index	Annuity Option, No Surrender	Annuity Option, With Full Surrender After __Years	S&P 500 Index
%	%	%	%	%	%	%	%	%	%	%	%

Returns are shown for the Standard and Poors' 500 Index, an unmanaged stock index. **Index returns used for purposes of this chart assume that dividends are reinvested**. *You should ascertain if the index chosen for computation of your annuity's returns include, or exclude, reinvestment of dividends.* Returns for the annuity account tied to the index are shown assuming: (1) no withdrawals are undertaken; and (2) assuming that no funds are withdrawn until the end of the period shown, but that at the end of such period all funds are withdrawn and any applicable surrender charge is paid. All returns are calculated based upon the formulas utilized in the annuity contract.

[Repeat disclosure for each additonal indexed option. Also show historical returns for any fixed account relative to a broad-based short-term fixed income index.]

If you desire to proceed to purchase an equity index annuity contract, your must read and initial each of the following:

☐ I believe that the equity index annuity is appropriate for my insurance needs, given my financial objectives and needs. I am purchasing this annuity with funds that I do not need for current (or near-term) expenses.

☐ I understand that the credit given to me during any period for index returns during that period does not include dividends which would have been received by an index mutual fund tied to that index and which would otherwise have been reinvested in that index. I also understand that there are caps on the index returns credited to my contract.

☐ I understand that I will possess limited rights to withdraw funds from the annuity product, and that any withdrawals in excess of the amounts permitted under the annuity contract will incur a substantial surrender fee until such time as surrender fees disappear.

☐ I have been provided with a specimen copy of the actual annuity contract, have reviewed it, and have compared the contract terms against any representations the salesperson may have made to me.

☐ I am aware that the insurance salesperson does not possess a broad fiduciary duty to act in my best interests, and instead represents the insurance company.

☐ I understand that the ability of the insurance company to make payments to me, upon surrender, is dependent upon the financial strength of the insurance company, and that this investment is not insured against loss of principal due to default by the insurance company by any federal or state government agency.

I understand that any withdrawals from the annuity of gains in the annuity will be taxed at my ordinary income tax rates, and will not receive more favorable long-term capital gain treatment and/or qualified dividend treatment which may have been available for distributions made from an index stock mutual fund.

I understand that withdrawals from the annuity before I reach age 59½, like early withdrawals from other tax-deferred products, may be subject to a 10% federal penalty tax.

I understand that, unlike mutual funds held in taxable accounts, annuities do not receive any stepped-up basis which eliminates capital gains at the death of the mutual fund owner, and that beneficiaries of the annuity will be taxed on the annuity's gains (i.e., to the extent the death benefit exceeds the cost basis of the annuity contract) at their ordinary income tax rates, which (combined federal, state and local) tax rates may be higher or lower than my ordinary income tax rate, depending upon the situation.

I understand that if I replace an existing annuity or life insurance policy with a equity indexed annuity contract, the death benefit promised under the prior annuity or insurance policy (including any guarantee that my beneficiary will receive more than the annuity's current market value) will not transfer to my new annuity. Furthermore, I understand that I may incur new sales charges and a new surrender fee period without necessarily receiving any major benefit as a result of the replacement.

THIS FORM MUST BE INITIALED, SIGNED, AND RETAINED BY THE ANNUITY SALESPERSON AND/OR HIS OR HER FIRM.

A COPY OF THIS DISCLOSURE MUST BE PROVIDED TO THE CONSUMER WITH THE ORIGINAL ANNUITY CONTRACT.