To: SECURITIES AND EXCHANGE COMMISSION
Re: 17 CFR Parts 230 and 240
File No. S7-14-08
Indexed Annuities and Certain Other Insurance Contracts
From: Dennis J. Preato, CPA (AZ)

I am writing in opposition to your proposed rule that would classify fixed indexed annuities as investments requiring additional supervision under the Securities Act of 1933 and 1934.

My concerns briefly outlined are as follows:

1. Your statements contained within your published document referred to above contain misleading information and fail to include significant factual information about fixed indexed annuities. Examples of some statements are underlined in Sections I, II, and III of your proposal. My comments are duly noted.

2. Adoption of such rules would also adversely affect competition and restrict the ability of many insurance agents who are not licensed to sell investments to make a living selling fixed annuities.

3. I have spent many years as a CPA, auditing various companies and investment related schemes. Never have I found a client or incident in which people lost any money by purchasing a fixed index annuity in which the interest credited is tied to an index. However, people have lost significant amounts of money by investing in marketable securities, all forms of regulated and unregulated investments including limited partnerships, debt securities, land fraud, etc. All the disclosures required of such investments have not prevented the loss of millions of dollars to in such investments.

Opening comments by SEC:

**In Section I of the Executive Summary you state** .....

Individuals who purchase indexed annuities are exposed to a <u>significant investment risk</u>—*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 <u>investment growth.</u>

Indexed annuities are attractive to purchasers because <u>they promise to offer market-related gains.</u> 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.

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 index' performance on his or her contract investment and <u>assumes the majority of the investment risk for the equity-linked returns under the contract.</u>

The federal interest in providing investors with disclosure, antifraud, and sales practice protections arises when individuals are offered indexed annuities that <u>expose them to securities investment risk.</u> Individuals who purchase such indexed annuities <u>assume many of the same</u>

risks and rewards that investors assume when investing their money in mutual funds, variable annuities, and other securities.

**Comments, misleading statements and omitted Facts:**

1. Significant investment risk includes the risk of losing money based on performance of the market. Index annuities are designed NOT to lose any money at all and provide people with certain guarantees. That is the reason the people own fixed annuities.
2. Insurance companies do not "promise to offer market-related gains" or refer to "investment growth. Earnings are based on the interest crediting method(s) selected by the annuity purchaser.
3. Individuals who purchase index annuities do Not as you state: "assume many of the same risks and rewards that investors assume when investing their money in mutual funds, variable annuities, and other securities."

A. What risks? Owners of fixed annuities cannot lose money in a market downturn but owners of securities do.

B. What rewards? Fixed annuities by their very design limit the amount of interest that can be earned based on any particular index. There is adequate disclosure upfront.
No one is under the impression that purchasers of index annuities can achieve maximum upside potential and at the same time have the peace of mind that they will not lose any money.

C. The SEC has not provided any actual examples of any losses that individual's have suffered because of the index crediting method they have selected. They don't exist.

**In section II** *A. Description of Indexed Annuities* **you state the following**:

During the accumulation period, the insurer credits the purchaser with a return that is based on changes in a securities index, such as the Dow Jones Industrial Average, Lehman Brothers Aggregate U.S. Index,Nasdaq 100 Index, or Standard & Poor's 500 Composite Stock Price Index.

**Comment:**
You FAIL to mention that index annuities offer a "fixed option" in which insurance companies offers a fixed rate of interest that cannot be reduced for the entire year. Many people will utilize this options solely or in addition to any of the indices you mention above.

**In section III under "type of investment" you state** ....
"Such indexed annuity contracts provide some protection against the risk of loss"

**Comment:**
This appears to be an obvious misstatement of fact. There is NO "risk of loss" in fixed annuity contracts unless of course you mean that the insurance companies goes of business (which is not the subject of this proposal). However, there certainly is substantial "risk of loss" in variable annuities or any other marketable security including investments in mutual funds, stocks, bonds, real estate limited partnership, EFTs, etc.