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U.S. DEPARTMENT OF THE TREASURY
OFFICE OF THE SECRETARY

August 1, 2008

Senator Mel Martinez
356 Russell Senate Office Building
Washington, DC 20510

Dear Mel,

This letter is in response to SEC Rule 151A that would effectively define all fixed annuities as securities, not insurance products.

I have been a financial planner for over 30 years; I'm originally from Pittsburgh, PA and have lived in Florida since 1995.

During my years counseling seniors (age 60+) I have recommended fixed indexed annuities (FIA's). See attached example of \$100,000 in DOW, S&P, and NASDAQ in 2000 to 2005 versus a fixed indexed annuity. (which guarantees principal)

I have many happy, satisfied clients who purchased FIA's in 2001-2008 and have avoided the severe market down turns. You know when you are 60+ you can't take the risks you took when you were 30! Preservation of your capital is paramount and FIA's provided the necessary guarantees.

I have summarized my points for you to consider on this issue and have attached them for your use.

You know there are at times 2 points of view in politics = style or substance.

I think FIA's are the substance and should remain fixed annuities. To change them to securities would be a style change and I believe not in the best interest of seniors for their guaranteed retirement plans which they can count on.

I would appreciate your thoughts. Please keep in mind the SEC has placed a deadline of September 10, 2008 for all comments.

Thank you for listening.

Yours very truly,

Richard C. Schmidt, CLU, ChFC, CFP

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Where Would You Be Today?
(12-31-99...12-31-05)

Year	Dow 30	S&P	NASDAQ
2000	↓ \$93,830 (-6.17%)	↓ \$89,860 (-10.14%)	↓ \$61,710 (-38.29%)
2001	↓ \$87,168 (-7.10%)	↓ \$78,142 (-13.04%)	↓ \$48,720 (-21.05%)
2002	↓ \$72,558 (-16.76%)	↓ \$59,880 (-23.37%)	↓ \$33,358 (-31.53%)
2003	↓ \$90,930 (+25.32%)	↓ \$75,677 (+26.38%)	↓ \$50,038 (+50.00%)
2004	↓ \$93,795 (+3.15%)	↓ \$82,480 (+8.99%)	↓ \$54,336 (+8.59%)
2005	↓ \$93,232 (-0.60%)	↓ \$84,954 (+3.00%)	↓ \$55,080 (+1.37%)

Index Annuity (8% Cap)
↔ 100,000 (0%)
↔ 100,000 (0%)
↔ 100,000 (0%)
↓ 108,000 (8%)
↓ 116,640 (8%)
↓ 120,139 (3%)

Please find below some of my points for you to consider

- Fixed Indexed Annuities (FIAs) are excellent products that give consumer guarantees, flexibility, tax-deferral and many other advantages. While FIAs are not for everyone, sales of these innovative products have soared in recent years because they give consumers a unique combination of guaranteed protection and opportunity for higher accumulation than traditional fixed annuities.
- The SEC's draft regulation (rule 151A) adds an unnecessary layer of securities regulation to this insurance product. Rule 151A would turn most FIA products—as well as some non-indexed fixed annuities—into securities. This will have far-reaching consequences by disrupting the manner in which these products are sold today. Thus, causing confusion over the differences between insurance versus securities and providing little additional consumer protection at tremendous cost to companies, agents and ultimately clients.
- Proposed rule 151A is ill-conceived. Many securities lawyers find the SEC proposal to be confusing and completely unsupported by judicial precedents on what makes an "annuity" exempt from securities laws. Beyond that, it defies common sense that a product which has virtually no market-related downside risk should be considered a security in the same manner as mutual funds or variable products which the investor bears the risk for market losses. Many observers think the SEC's proposed regulation—if adopted—is a slippery slope towards reclassifying many other annuity products as securities. This seems at odds with the Congressional intent.
- FIA products are heavily regulated by state insurance departments. Through the NAIC, state regulators have worked hard over many years to come up with appropriate suitability and disclosure requirements for FIA products. To the credit of state insurance regulators, this work continues today and should not be derailed by the SEC's unilateral action.
- Criticisms of FIAs have been exaggerated and market abuses have been largely corrected. The SEC—along with other critics—have focused on abuses in the marketing of these products. Needless to say, there are abuses in the marketing of all financial products, including many that are already regulated by the SEC. The fact is the FIA market has grown rapidly because there is a demand for these products and generally consumers have been pleased with the results. While there have been some inappropriate sales (as with any innovative product) those concerns have been largely addressed by new regulations and the evolution of FIAs (e.g. lower surrender charges, shorter surrender periods). FIA products and the FIA marketplace will continue to evolve to meet consumer needs despite efforts by critics to paint the entire industry with one brush.
- The recent downturn in the stock market highlights the value of FIAs. While millions of Americans suffered financial losses as a result of a twenty percent plunge in the stock market, FIA-holders have not lost a penny in retirement savings because of market turmoil. FIA-holders have peace of mind that market fluctuations do not adversely affect their account values.
- The SEC proposal has not been appropriately vetted for comment—and appears to be rushed for adoption. With virtually no forewarning, the SEC unveiled this proposal on June 25 and has allowed for comments only until September 10. This means a proposal with profound effects on the insurance industry could become law within just a couple of months even though agents and insurers have had minimal opportunity to evaluate, comment and possibly offer alternative approaches to address any valid concerns. This sudden action comes ten years after the SEC first identified issues left dormant as the FIA market grew and evolved. Fair play demands that a proposal of this magnitude not be rushed or adopted hastily.