

From: "nobody@www.senate.gov" <nobody@www.senate.gov>
Date: 7/28/2008 10:51:41 PM
To: webmail@kyl-ig.senate.gov
Subject: Opposition to proposed SEC rule 151a

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<MSG>Dear Senator Kyl, I am a Tucson attorney and also licensed insurance agent as we do financial planning. A large part of my practice involves the sale of fixed, indexed annuities which are insurance products, regulated by each state, sold by licensees licensed by the insurance commissioners, and although tied to a stock market index or indices for determination of how much interest the contract earns from year to year, they are not investments in the stock market.

The SEC proposes to regulate the sales of these insurance products as securities and I oppose this. I hope you will join me in voicing your opposition.

First of all, securities are only sold by SEC licensees and each has a broker-dealer they "clear" through. There is no such thing as an independent stock broker; they are ordered by their broker dealer to sell and not sell particular products, particular companies, etc and limit the choice of consumers.

For example, Edward Jones, a well known stock brokerage, publishes in its literature the fact that they will not sell and do not permit their licensees to sell fixed, indexed annuities.

Such products guarantee the consumer no loss of principal and accrued interest from year to year; they typically have no up front fees, and virtually never have ongoing management fees, unlike variable annuities that stock brokers sell that are loaded with up front and ongoing fees.

Independent insurance agents, on the other hand, can represent one or many different companies and shop for the best deal for the consumer.

Yes there have been abusive sales of fixed annuities, but the state regulators have always acted promptly and revoked the licenses of the crooks; so it's not an area requiring federal regulation.

Each state decides which of these products to allow to be sold and approves the literature (which is always consumer friendly and readable).

Why shouldn't the Arizona insurance commissioner have the right to decide what annuity products are sold in Arizona? This would take away that discretion.

Bottom line: this proposal is extremely consumer unfriendly and has been foisted upon the sec by the stock broker's trade association that changed its name to FINRA, although it is a voluntary membership trade association; and they want to eliminate competition.

I invite you to obtain a consumer brochure on a fixed indexed annuity, and one on a variable stock broker sold product, and see which is easier to read. Our fixed product brochures are typically 15 pages or so of consumer-friendly information; the typical variable brochure is over 100 pages long and you have to have a law degree to understand it. How is that more consumer friendly than what we have now?

Your assistance in getting this proposed rule voted down would be most welcome.

Sincerely,

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