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October 27, 2008

Ms. Florence Harmon, Acting Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549 - 1090

Re; File No. S7-14-08

Dear Ms. Harmon:

I oppose the adoption of proposed rule 151a by the SEC for several reasons which will be outlined below and generally find that the SEC is exceeding its authority in creating this rule. It's obvious that this push has been orchestrated by the securities industry, which is concerned with loss of income due to an outflow of funds from under their control into FIA's, which afford the broker-dealer little, if any, remuneration.

We all realize that some of the Indexed Annuity sales should not have happened, but when you look at the overall volume of FIA sales (2nd quarter sales are estimated at $ 6.9 Billion) which is what's driving Broker-Dealers crazy, the number of complaints is small. Certainly smaller than those related to the in-securities industries, which the SEC clearly has control over.

The Executive Summary produced by the SEC contains inaccurate information that may lead many readers to come to an erroneous conclusion. It lacks factual integrity. The SEC document states for example:

"Individuals who purchase indexed annuities are exposed to a significant investment risk – 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 investment growth. Indexed annuities are attractive to purchasers because they promise to offer market-related gains. 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 (page 5 - Executive Summary).

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The fact is that individuals who purchase indexed annuities are **NOT** exposed to a investment risk because they do not own shares in any security, nor does the account value fluctuate due to market volatility. Investment risk does not mean that a consumer could have received a better return in a different product- there's always something out there that might do better. It is grossly inaccurate and reckless to state that a purchaser of an index annuity may suffer investment risk.

Insurance companies have successfully developed and designed innovative solutions promoting this benefit, which appeals to purchasers on the familiar insurance mainstay of stability and security. Indexed annuities are attractive to purchasers because they promise the potential to exceed traditional fixed interest rates without exposing principal or past interest credits to market risk. Thus, these purchasers obtain Fixed Indexed Annuity contracts for many of the same reasons that individuals purchase non-securities products such as certificate of deposits (CDs) and traditional fixed annuities.

Unlike true security products, the purchaser is NOT directly impacted by market fluctuations because negative investment risk fluctuation to the purchaser is eliminated entirely. Therefore investment risk fluctuation (currently the market is down by 30%, but none of my FIA purchasers have lost a penny !

The SEC document incorrectly states that "Individuals who purchase such indexed annuities assume many of the same risks and rewards that investors assume when investing their money in mutual funds, variable annuities, and other securities (page 6)." The fact is that individuals who purchase **Fixed Indexed Annuities** do **NOT** assume any of the same risks and rewards that investors assume when investing in mutual funds, variable annuities and other securities, and have not lost anything in our market melt-down.

Sadly, the SEC has shown its true intent by drafting a document full of errors designed to give readers a false concern and an inaccurate picture of what a Fixed Indexed Annuity actually is. Further, the SEC is demonstrating it is only interested in defining financial products as securities because they are achieving a certain level of sales success.

As millions of Americans approach retirement, it is perfectly reasonable for those same people be become more conservative with their resources and choose safe money options like a Fixed Indexed Annuity. The SEC and FINRA (NASD) are proposing this regulation not to protect American Consumers but rather, their own self interests.

With the implosion of the in-security business -- Enron, WorldCom, Bear-Stearns, Lehman Brothers, Merrill Lynch -- all clearly under the SEC's purview, it seems reasonable to suggest that the SEC should concentrate on doing a better job of taking care of what's clearly their own business, instead of making this blatant power grab.

Please reject this proposed rule 151a for the benefit of millions of Americans desiring a safe and guaranteed option for their money, for the tens of thousands of small entity insurance professionals who will be impaired if it is adopted, and for the purchasers of Fixed Indexed Annuities who deserve a robust local regulatory authority to rapidly resolve their complaints.

Very truly yours,

Philip H. Lubitz, CLU, ChFC, IAR

http://www.sec.gov/comments/s7-14-08/s71408typea.htm