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November 19, 2008

Florence E. Harmon, Acting Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: SEC Proposed Rule 151A on Indexed Annuities (File Number. S7-14-08)

Dear Secretary Harmon:

As a member of the financial services industry, registered representative, and licensed insurance agent, I am writing to express my opposition to a recent proposal from the Securities and Exchange Commission ("SEC") that would significantly change the regulation of certain annuity contracts and negatively impact companies, agents, and consumers across the United States of America.

On July 1, 2008, the SEC published for comment a proposed new rule to reclassify, prospectively, state-regulated insurance products called indexed annuities as securities ("Proposed Rule 151A"). These products are currently used by millions of Americans to help achieve their savings goals. Proposed Rule 151A would, have profound implications for the way these products are developed, marketed and sold. It would subject already state-regulated insurance products to dual regulation by federal securities law, registration requirements, and oversight, adding filing obligations and compliance costs. It would also require that such products be distributed exclusively by registered representatives of SEC-licensed broker- dealers, rather than independent insurance agents who are solely state-licensed.

While I strongly support initiatives by the SEC to improve protection of investors in the securities markets, I do not believe the SEC's proposal, as drafted, would provide significant added protections to such investors, certainly not sufficient to justify such a profound departure from the existing regulatory scheme for financial products enacted by Congress. What follows are several points that I believe merit serious consideration by the Commission.

First, the SEC's proposed release fails to make a convincing case that the products it seeks to assert its securities-law regulatory authority over are, in fact, securities. Indexed annuities provide contract owners with guaranteed minimum values — undoubtedly the most salient feature of this product, especially during market the downturn we are currently experiencing. While millions of investors in stocks and mutual funds have lost billions of dollars in the value of their holdings due to such declines, indexed annuity holders lost nothing. **I can personally tell you that 100% of my clients that own indexed annuities are delighted with the fact that they have lost zero dollars**

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in this current market downturn, unlike those invested in stocks, bonds, mutual funds, and other securities. As with traditional fixed annuities, the guarantees in indexed annuities are funded through the insurance company's general account and the company bears the burden of making sure it has sufficient funds to meet its contractual obligations to contract owners. The insurer bears the investment risk. In addition, I am concerned that the proposed rule as drafted is too broad and may pull into its grasp many traditional annuity products that would further alter the regulatory scheme enacted by Congress for the regulation of financial products.

Second, indexed annuities, the companies that issue them, and the agents that sell them are already regulated, inspected and licensed under state law and have been since the introduction of indexed annuities. For example, insurers and their products are subject to comprehensive state regulation with respect to investment and financial requirements, unfair and deceptive trade practices, and guaranty fund laws. Well over 30 states have adopted the National Association of Insurance Commissioners' ("NAIC") Suitability in Annuity Transactions Model Regulation, which governs the suitability of annuity sales, strengthens agent supervision and requires periodic review of records. Nearly every state has adopted the NAIC's Life Insurance and Annuities Replacement Model Regulation, which regulates the activities of insurance companies and producers when replacing existing life insurance and annuities. A number of states have adopted the NAIC's Annuity Disclosure Model Regulation, which provides guidance to insurers in developing disclosure documents and information. I understand from the NAIC that it continually subjects these measures to review and improvements to better protect consumers.

Further, every state requires a minimum level of competency for producers to obtain a license to sell, solicit or negotiate annuity products and continuing education to maintain their license. Here in South Carolina, my state of residence, I am required to complete 24 hours of continuing education each year. It appears to me that state insurance commissioners and the NAIC have taken the necessary steps to safeguard consumers. The SEC's proposing release fails to demonstrate that state regulation of indexed annuities has fallen short in some material respect sufficient to implicate the "federal interest" (as the SEC calls it) in providing consumers with the protections of the federal securities laws or what new/additional benefits would flow to consumers from such protections. To me, it appears that Proposed Rule 151A would only require duplicate disclosure and would not provide a net benefit to consumers.

Third, Proposed Rule 151A could have the effect of reducing product availability and consumer choice, effectively placing the cost of the regulation squarely on the shoulders of consumers. Since I am already registered, the fact that the regulation would require agents to register with the SEC as licensed representatives associated with broker/dealers does not impact me; however, it would create significant administrative costs and would probably decrease the competitiveness of the industry. The above factors will likely result in reduced consumer choice and higher consumer costs.

Fourth, I take issue with the process, or lack thereof, by which the SEC developed Proposed Rule 151A. It is my understanding that the concept release for Proposed Rule 151A was issued in 1997

— over ten years ago. I am aware that since that time, the market for indexed insurance products has grown substantially. Yet, in its proposing release, the SEC has produced no studies or evidence indicating a correspondent, widespread growth in losses to owners of indexed annuities. Further, save for a letter I understand the SEC sent to insurance carriers in mid-2005, the SEC appears not to have undertaken the sort of outreach to stakeholders and Congress one would expect to precede such a major proposal. If this initiative is truly important to investor protection in the SEC's view, why has the Commission taken so long to bring 151A forth and why didn't the Chairman or other Commissioners fully explain it in their many appearances before Congress in recent months/years? I believe the SEC should have taken, and perhaps still can take, an approach that is more inclusive of stakeholder views and Congressional input on the front end.

Finally, I are concerned with whether the SEC has the resources or expertise necessary to take on such a major new regulatory responsibility, particularly in light of the fact that the Commission appears to have its hands more than full dealing with the current crisis in the financial markets. How would the SEC handle these new responsibilities? How would the SEC provide additional oversight of these products? If so, would this distract from the SEC's current focus on dealing with the mortgage-related crisis in the financial markets? I think the SEC's top priority should be to address problems associated with the current crisis and work to get U.S. issuers and markets back on sound footing before taking on new authority.

While I strongly support initiatives by the SEC to protect consumers, I oppose Proposed Rule 151A because it does not adequately correspond to the issues it purports to address. Until the SEC addresses these concerns, and the many other issues raised by stakeholders, I believe further action by the SEC with regard to 151A is unwarranted. I urge you to withdraw the proposed rule. I hope that the SEC will heed the concerns I have expressed in this letter.

Sincerely,

Paul C. MacDonald, CLU
Chartered Financial Consultant, Registered Representative
President, The MacDonald Financial Group