



**SINGER TAX ADVISORY GROUP**  
SECURE RETIREMENT SOLUTIONS

Senator Richard Lugar  
306 Hart  
Senate Office Building  
Washington DC 20510

Dear Senator Lugar:

RE: SEC Ruling 151A

The Securities and Exchange Commission (SEC) is proposing a rule now known as 151A that if adopted, would make Fixed Indexed Annuities a registered security.

As a citizen working in the annuity insurance industry, I fully understand the suitable nature of Fixed Indexed Annuities (FIA) and that they are excellent products that give consumers guarantees, flexibility, tax-deferral, and many other advantages. While it should be understood that Fixed Indexed Annuities are not for everyone, sales of this innovative product have become very popular 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 proposed Rule 151A adds an unnecessary layer of securities regulation to this insurance product as these products are already heavily and adequately regulated by state insurance departments. State insurance regulators continue this credible work today (through organizations like the NAIC) and should not be derailed by the SEC's unilateral action. America has enough economic and political challenges to work through. This is not the proper time for creating additional uncertainty and discord for the American citizen.

The SEC's proposed Rule 151A will have far-reaching consequences by disrupting the manner in which these products are sold today, causing confusion over the differences between insurance versus securities, and ultimately providing little additional consumer protection at tremendous cost to companies, agents, and ultimately consumers.

If adopted the SEC's proposed regulation is a slippery slope towards reclassifying many other annuity products as securities. This seems at odds with Congressional intent and legal precedent. Criticisms of Fixed Indexed Annuities have been overstated and market abuses have been largely corrected.

The SEC as well as other critics frequently have an exaggerated (and biased) concern over fraud and investor losses and, at least by comparison, a conflicting dulled sensitivity to the costs of greater investor protection. In practice, this means more investor protection and perhaps too much investor protection at the expense of other goals, such as capital formation. Needless to say, there are abuses in the marketing of all financial products including many that are already regulated by the SEC, e.g., Wall Street credit rating agencies in banking, and mutual funds, are more recent examples.

To craft an effective securities law regime, regulators have to appraise objectively and rationally assess the costs and benefits of regulating; regulators' judgment cannot be obscured by cognitive biases and conflict



---

## SINGER TAX ADVISORY GROUP

SECURE RETIREMENT SOLUTIONS

---

of interest promoted by organizations like FINRA (a securities proponent). An unbiased, more transparent analysis of the consequences of risk regulation should lead to a more effective regime that better advances regulatory goals. The states play a critical consumer protection role and that must be preserved.

The SEC's primary focus should remain ensuring the integrity and transparency of the public securities markets. Incorporating other duties in the non-securities (i.e., insurance) market under the guise of consumer protection seems very dangerous given that these goals are often in conflict, and it's most likely that issues such as greater transparency and consumer protection will get buried under the business interests. The current SEC rule proposal is a glaring example of such a conflict.

The SEC does mostly a fine job when it stays within its focused role and should stay away from incorporating additional duties that create conflict of interest problems and take away from their core responsibilities in the public securities markets.

The SEC proposal 151A has not been appropriately studied for comment and appears to have been rushed to adoption. The SEC has been persuaded by business interests to promote and unveil this proposal on June 25 and has allowed for comments only until September 10.

A proposal with such profound effects on the insurance industry and many Americans could become law within just a couple 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 this very issue that was then left dormant as the Fixed Indexed Annuity market grew and evolved over many years. Once again business interests have taken priority over integrity and transparency. Fair play demands that a proposal of this magnitude not be pushed or adopted hastily, if adopted at all.

Sincerely,

Brian Singer