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I support this rule.

First, the products are generally marketed as a security (or as a product yielding market returns).

Second, the product has risk. The minimum guaranteed interest rate provides a negative real rate of return. There is talk about indexing all government and SEC dollar figures to account for inflation. Shouldn't we also index our concept of risk for inflation as well?

That said, I do not know why the SEC and the public are talking about the abuses. I just cannot wrap my head around the relevance. Neither the Securities Act of 1933 nor the relevant court decisions (VALIC & United Benefit) use abuse as a factor determinative of what a security is.

I do have one question:

If there was an annuity product that was indexed to the consumer price index, a real estate index, or a commodities index, and adjusted retrospectively for the year's return (as fixed indexed annuities are), would such an instrument be a security. Rule 151A would not be applicable. The Rule 151 safeharbor would not be satisfied (under current SEC interpretations). So, how would section 3(a)(8) treat such an instrument?