

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.

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

1. The SEC suggests the Fixed Indexed Annuity (FIA) is purchased for many of the same reasons individuals purchase mutual funds, variable annuities and brokerage accounts. **FACT:** The FIA is a fixed product and people purchase the product for many of the same reasons people purchase savings instruments such as CDs or Fixed Annuities.
2. The SEC suggests that FIA purchasers bare the majority of investment risk for fluctuating market performance. **FACT:** Unlike true security products, the purchaser is NOT directly impacted by market fluctuations. Negative investment risk fluctuation to the purchaser is eliminated entirely.
3. The SEC suggests that FIA purchasers assume many of the risks and rewards that investors assume. **FACT:** FIA purchasers assume the benefits and rewards of a Fixed Annuity. Market fluctuations do NOT affect principal value or past interest credits.
4. The SEC suggests that federally mandated disclosure and sales practices are needed. **FACT:** Suitability regulations in most states and the sale practices required by insurance companies already meet or exceed the federal requirements. Complaint resolution through a department of insurance is much more effective that provided in securities law. Rather than hiring an attorney and going to court, a consumer working with their local department of insurance receives direct representation at no cost.
5. The SEC suggests that abusive sales practices are fueled by outsized commissions. **FACT:** The complaint rate on FIAs is one complaint for every \$109 million in sales according to the Advantage Compendium. Over the life of any annuity contract, the compensation is actually less than that of an investment advisor.
6. The SEC mentions case law regarding the evaluation of whether an FIA is a security but fails to mention the judges' findings. According to the judge, in *Malone v. Addison Ins. Marketing*, an FIA is NOT A SECURITY.

7. The SEC document states there will be increased competition by adopting this rule. This rule will reduce competition and harm consumers. If adopted, only consumers who open brokerage accounts may access an FIA.
8. Costs of creation and administration of the product will increase dramatically and reduce the value for FIA purchasers.
9. This change will cause a negative economic impact well in excess of \$100 million to small agencies within insurance industry. This violates the Small Business Regulatory Enforcement Fairness Act of 1996.
10. The SEC is focused only on declaring products a security if the sales volume is significant. They fail to consider Indexed CDs or Indexed Universal Life in this rule. The SEC is being inappropriately influenced by securities dealers through their trade association (FINRA). These dealers are seeking to gain control of additional sales volume to increase their revenue. This is clearly not about protecting consumers as those protections are already in place with each state department of insurance.

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.

Sincerely,

Brian Singer