ADVISORS EXCEL
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At the request of the SEC, please accept these comments regarding proposed rule 151A on behalf of Advisors Excel, a financial services marketing organization that works closely with independent financial advisors and insurance agents in most of the 50 states.

First, Advisors Excel, our employees, the advisors and agents we work with and the majority of insurance companies that we represent applaud any and all efforts to better protect consumers from making poor financial decisions. This should be the overwhelming goal of everyone associated with the financial services industry, no matter the license you hold, product you sell or company you represent.

We will not comment on the legality of the proposed ruling in these comments. We assume the SEC is very aware of previous precedent that has already been set in the matter of indexed annuities being regulated as a security. We further assume that the SEC is well aware that the adoption of this ruling will eventually play itself out in court, which if that happens should put this matter to rest. We would strongly urge the SEC to consider the likelihood that they may lose a court battle, based on previous precedent surrounding fixed annuities. The courts have recently overturned several adopted rulings from the SEC and when that happens, the SEC is left with few options, a court ruling is final. It would be our basic recommendation that if the SEC is worried about consumer protection, that they take the time to truly examine and understand all the steps the insurance industry has already taken to protect their consumers. Many companies are requiring suitability standards not seen in any other industry. Many companies are calling every consumer over the age of 75 to confirm their decision and make sure they are aware of what they purchased. If the SEC would take the time to completely look at the process a consumer goes through to purchase a fixed indexed annuity, especially consumers over the age of 75, I think they would be encouraged with the steps that have been taken. After going through that process, it would be our recommendation that the SEC provide some additional suggestions that could be implemented by the insurance industry to better protect consumers. This may ultimately be a better resolution than having the ruling decided by the courts, where a decision will be very final.

Legality of the ruling aside, we submit the following comments to argue that the timing of this proposed ruling may be a bit premature and not completely necessary. Please consider the impact the adoption of this rule will have on consumers, advisors and thousands, if not tens of thousands, of hard-working Americans within our economy.

Impact on the economy:

Industry experts, including those at Advantage Compendium have estimated that this ruling could have a economic impact in excess of $800 million to the insurance industry and their distribution channels. Under the Small Business Regulatory Enforcement Fairness Act of 1996, any major rule that could impact the economy to the tune of $100 million plus is required to be reviewed by Congress.

As the first of 80 million baby boomers transition into retirement, our government's entitlement programs will be stretched to their capacity. We are currently experiencing overwhelming costs

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associated with a war in the Middle East. Our country is in dire need of maintenance on many roads, bridges and highways. The housing market has burst, and doesn't show signs of slowing down. Foreclosures are at all time highs. One of the country's five largest banks just filed for bankruptcy. Based on the current state of our economy, the last thing our country needs is a ruling that could have a $850 million impact. We would encourage the SEC to delay ruling on 151A and instead focus their attention on many of the situations that are having a tremendous impact on our economy. Give the insurance industry a chance to show they are doing what it takes to protect consumers, and let's keep the $850 million in our economy.

Impact on hard working, honest and caring Americans:

The insurance industry has some of the finest people in our country representing it. From the hundreds of thousands of agents representing companies, to the home office employees, to the thousands of employees working for insurance marketing organizations just like ours, we would tell you that we care more about the end consumer than you can ever realize. It makes us sick to our stomach when we see bad advisors do bad things. But to think that this only happens in the insurance industry is nonsense. We all know every industry has bad apples in it, and they can give an entire industry a bad name. But, to base your conclusion of the fixed annuity industry on a 45 minute Dateline NBC show is just plain irresponsible. Numerous responsible journalist have "bashed" the tactics used by Dateline NBC for years. To base a decision of this magnitude on two minute clips of what was a 2 hour plus conversation that these agents had with the Dateline prospects is not fair to anyone in our industry. Furthermore, as Dateline pointed out so well in their piece on "Tricks of the Trade" the consumers are rarely hurt. The gentleman at the beginning of the show was refunded all of his money. Several of the agents shown in the program are currently facing lawsuits and have been terminated by many insurance companies. Our industry does not condone behavior that harms the consumer. The majority of the industry is made up of caring, honest, hard working Americans that believe in our products and their ability to protect consumers during their golden years of retirement.

Impact on Advisors/Agents:

It is our biggest fear that this ruling has the potential to discourage advisors and agents from even using the indexed annuity product in their portfolio. Every product has a purpose and it's important that people understand the positives and negatives of any financial product they purchase. If the SEC adopts this ruling, it will undoubtedly lead to additional cost to regulate the indexed products which ultimately will impact the viability of the product for the end consumer.

These products have been designed to give retirees a fair rate of return that has the potential to keep up with inflation. They protect a lifetime of savings from market losses a need for many retirees. If this ruling is adopted and becomes finalized, an index annuity would be more expensive and less client driven, meaning advisors may potentially stop offering them all together, a tragic ending to a good

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product. While we agree that indexed annuities aren't for everyone, we also believe they are a great product for conservative retirees who can't afford to lose principal and plan to supplement their retirement income in the future.

Impact on Consumers:

It is rather ironic that the one group we are assuming the SEC is trying to protect the most may ultimately pay the biggest price if this ruling is adopted. As previously mentioned, more oversight and regulation of these products on the federal level will lead to additional costs and expenses. It is our fear that these costs and expenses will be passed down to the end consumer, effectively costing them precious return potential during their retirement years.

Also, while we do not doubt the SEC has the consumer's best interest at heart, it would be safe to argue that SEC and FINRA oversight of variable annuities hasn't led to a huge reduction in complaints and abusive sales within those products. In fact, according to the NAIC statistics from 2004-2006, variable annuities accounted for 63% of the total annuity complaints that were received.

Many American retirees are subjecting their retirement nest eggs to unnecessary market risks that could devastate their retirement lifestyle. The fixed indexed annuity has proven to be a very viable and suitable option for conservative retirees that want tax-deferral, safety of principal, liquidity options and the ability to create a lifetime of income that cannot be outlived. Proposed rule 151A has the potential to eliminate that option for many deserving and hard working American retirees.

In closing, we would strongly recommend that the SEC consider the far reaching impact of this decision. If consumer protection is the primary motive, instead of making a decision that may end up harming the consumer, an entire industry and our already weak economy, we would encourage the SEC to work more closely with the insurance industry. We believe that if the SEC truly understands the protection features the insurance industry has already put in place, they would realize that consumer protection is our #1 goal. If the SEC feels there are still areas of weakness, they could make suggestions to the insurance industry to improve those areas. We all have the same goal, helping consumers protect their retirement.

Thank you for taking the time to consider these comments.

Sincerely,

Cody Foster, Founder, submitted on behalf of Advisors Excel