August 25, 2008

I oppose the propsed rule 151A because of the following:

Fixed index annuities are excellent products. Fixed index annuities offer many advantages to consumers, including protection against market risk and income tax deferral. The value of fixed index annuities for consumers has been underscored by the recent experiences of the economic downturn when securities have decreased in value significantly.

Proposed Rule 151A creates a new unnecessary layer of regulation that will cause consumer confusion and economic disruption. The consequences of the SEC taking on a regulatory role of fixed index annuities over the current system of state regulation and oversight are likely to confuse consumers about what constitutes a market-risk security. The required changes for insurance carriers and producers will dramatically increase costs for those who sell and buy these annuities.

Proposed Rule 151A is not legally supported. It does not make sense for annuities that have no market related downside risk to the consumer to be treated as securities. Fixed index annuities are unlike other products where the consumer bears such market risk.

Proposed Rule 151A has not been appropriately vetted for comment and is being rushed to adoption. The proposed rule appeared unexpectedly and with a very short comment period. The proposed rule represents a significant potential impact on the financial services industry and consumers and deserves adequate time for examination and analysis to determine the extent of its impact.

Criticism of fixed index annuities, while of concern, has been exaggerated, and the few documented instances of fixed index annuity market abuses – similar to abuses which on occasion do occur for all financial products including those regulated by the SEC – have been largely corrected for fixed index annuities. State regulators have worked hard to put in place logical controls, and the products have evolved to further meet consumer needs. States have in place resources to respond to consumer concerns and provide local and thorough investigations of consumer complaints.

The SEC is required by law to take into account the benefits and cost of the regulation. The benefits listed by the SEC are: (i) enhanced disclosure of information needed to make informed investment decisions about indexed annuities; (ii) sales practice protections would apply with respect to those indexed annuities that are outside the insurance exemption; (iii) greater regulatory certainty with regard to the status of indexed annuities under the federal securities laws; and, (iv) enhanced competition. The release included a brief overview of the SEC's assumptions on cost, but did not set out a thorough economic impact analysis regarding duplicate regulation and the promotion of efficiency, competition and capital formation. An extension of the comment deadline is essential to develop a complete analysis.

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