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The Honorable Congressman Vern Ehlers
2182 Rayburn House Office Building
Washington, DC 20515

July 25, 2008

Re: SEC Proposed Rule 151A
Regulating Fixed Indexed Annuities as Securities

Dear Congressman Ehlers:

I need your help. The Securities and Exchange Commission has proposed a rule that threatens my livelihood. It would also deny a valuable insurance product to my clients and your constituents. SEC Rule 151A if adopted will turn most fixed indexed annuities (FIAs) – as well as more non-indexed traditional fixed annuities – into securities. The SEC has proposed changing the definition of a “Security”. FIAs are currently regulated by the individual states’ departments of insurance. My clients have used these products with great success since 1995 to safely build their retirements while enjoying the valuable guarantees these product offers.

More time is needed for an appropriate comment period. The SEC has only allowed 78 days for the public and the industry to voice its comments (from June 25, 2008 to September 10, 2008). This hasty introduced proposal threatens the livelihood of tens of thousands of insurance agents and the financial stability of 100s of insurance companies. **At a time when our economy is struggling, the SEC seeks to cripple an entire industry affecting hundreds of thousands of Americans.** Seventy eight days is simply not a long enough time for a comment period. I encourage you to contact SEC Chairman Christopher Cox, the SEC Commissioners as well as the Chairpersons and members of the House Financial Services Committee. This proposal that will have a profound effect on the insurance industry could become law within just a couple of months even though agents, insurance companies, and consumers have had minimum opportunity to evaluate, comment and offer possible alternatives.

No one denies that there have been some unsuitable sales and improper actions in the sale of FIAs. As a licensed insurance agent for over 30 years I have read of such practices. However, problems exist in every business and industry in the country. It is human nature and a fact of life that whenever large numbers of individuals or transactions are involved – there will be some abuses. In my experience, the criticisms have largely been exaggerated and market abuses have been largely corrected. **The answer to these abuses is not for the SEC to broadly expand its powers to regulate an entire industry that has been appropriately regulated on a state level.**

Fixed Indexed annuities are excellent products that give consumer guarantees they cannot find elsewhere. Consumers have been drawn to these products because of the guarantees and the benefits they offer. The FIA allows the consumer to earn an attractive interest rate linked to the increase of an index (typically the S&P 500 index). When the index goes up the consumer earns an attractive interest rate. When the index goes down, the consumer does not lose any value. In this way, consumers are able to enjoy some of the benefits from the good years of the stock market *without having* any money at risk. Because they are fixed annuities, each contract offers a full guarantee of premium and a contractually guaranteed minimum interest rate - regardless of market performance. The recent downturn in the stock market highlights the value of FIAs. Millions of Americans have lost a significant portion of their wealth in the recent market losses, while FIA owners have enjoyed peace of mind that market fluctuations do not adversely affect their retirement savings. Now that is threatened - as the SEC wants to take this valuable product away from consumers.

The SEC has stated that because the FIA *uses* a security to determine excess interest (over the guarantee minimum interest rate) that *makes the annuity a security* (totally disregarding the fact that the consumer bears no market risk of loss of his principal in these products). By this logic, the SEC will next propose that all "adjustable rate mortgages" are securities - because their interest rate is determined by the LIBOR (a security). If this happens then all adjustable rate mortgages will either be eliminated from the marketplace or sold by a prospectus by registered representative with oversight from an additionally expanded SEC.

As a legislator, no doubt you know the expression: "Hard Cases Make Bad Law". The SEC has featured a few FIAs with long and high surrender charge schedules that are not client-friendly. The SEC in its comments, focused on the worst-of-the-worst and most egregious examples of unsuitable sales by a few poorly trained or unscrupulous agents. The SEC staff has totally ignored that the majority of products are client-friendly and sold by well-trained and honest agents - because that would not support their argument that the SEC expand its reach and oversight. The SEC proposal adds an unnecessary layer of securities regulation to his insurance product that is already sufficiently regulated at a state level.

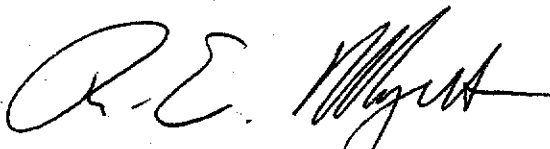
A close parallel to this situation with annuities is how drugs are regulated in this country. We have two classes of medications - prescription drugs and over-the-counter medications. Have there ever been abuses of lesser regulated over-the-counter medications? Of course there have, - most recently certain cold medications were being improperly used to create meth-amphetamines. What was the solution? Place those over-the-counter medications behind the counter. Imagine if the FDA instead banned all over-the-counter medications? Then all medicines (including aspirin) would only be available by prescription. Who would be hurt by such an action? The answer: Every consumer who has a headache, cold or fever. This is a close parallel in that we currently have two different types of annuities (Fixed Indexed and Variable). The Variable annuity is one that is rightly regulated by the SEC and Fixed Indexed Annuity has been a product regulated by the states because it carries no market risk for the consumer. Now

because of a few exaggerated abuses with FIAs, the SEC is attempting to classify all FIAs as securities. Who will be hurt by such an action? The answer: Every consumer without a brokerage account who wants a guarantee of principal, a guaranteed minimum interest rate and the potential for a higher interest rate without market risk. The SEC is proposing a sweeping change to address problems that are very limited and have already been largely addressed by the individual states.

The SEC has stated that Fixed Indexed Annuities will still be available to the public once they are registered as securities and sold by prospectus through Registered Representatives. This argument is entirely disingenuous and misleading. It is akin to Marie Antoinette saying: "let them eat cake" when told that her people have no bread. The vast majority of Fixed Indexed Annuities purchased by consumers do not have brokerage accounts. In my experience, 85% of FIA owners do not have a brokerage account. In addition, Registered Representatives sell VARIABLE ANNUITIES (as a rule), not FIXED ANNUITIES (even though they are licensed to do so). If Registered Representatives wanted to sell FIAs to their clients - they would already do so today. Having a FIA as a registered product will not make it more attractive but less attractive than its current form as the issuing insurance companies will have to reduce the benefits and compensation to cope with the new additional costs of registration and compliance requirements. The vast majority of FIAs are sold by insurance agents - not Registered Representatives. This proposed rule would virtually eliminate this valuable product that consumers current enjoy. The staff of the SEC is either unaware of these facts or chooses to ignore them as it does not support their argument for extending their own power and expansion of their agency. The SEC staff seems oblivious to the *negative impact* their proposed rule would have on the very consumers they state that are trying to protect.

Congressman Ehlers, I encourage you to contact SEC Chairman Christopher Cox, the SEC Commissioners as well as the Chairpersons and members of the House Financial Services Committee to see that the comment period is extended or that this hastily conceived rule is dropped or amended. Please do whatever you can in your capacity as my Senator to stop this draft regulation from becoming law.

Respectfully Submitted,



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Certified Financial Planner™