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United States Senate

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CHAIRMAN'S
CORRESPONDENCE UNIT

The Honorable Christopher Cox, Chairman
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-0001

Dear Chairman Cox:

In September I wrote to you, requesting an extension of the comment period for the Securities and Exchange Commission's (SEC) proposed Rule 151A regarding indexed annuities. I thank you for accommodating my request for additional time to consider comments on this important issue, and I write today to share my views as both a United States Senator and a former Insurance Commissioner in my home state of Nebraska.

I fully support initiatives to improve protection of investors in the securities markets. However, I do not believe the SEC's proposal to regulate indexed annuities is necessary to provide added protections to investors. I understand that concerns have emerged about suitability issues and sales practices with regard to indexed annuities. I share these concerns, but also understand that state insurance regulators are currently engaged in efforts to address these and other issues regarding indexed annuities. I am concerned that reclassifying indexed annuities as securities, rather than insurance products, and subjecting them to federal regulation would be a profound departure from the existing regulatory structure for financial products enacted by Congress.

As you know, indexed annuities, together with the companies issuing them and the agents selling them, are already regulated, inspected and licensed under state law and have been since their introduction. Furthermore, every state government requires a minimum level of competency for producers to obtain a license to sell, solicit or negotiate any annuity products and also requires continuing education to maintain that license. Over the past two years, state insurance commissioners, as well as the National Association of Insurance Commissioners (NAIC) organization, have taken additional steps to safeguard consumers. These actions should be allowed time to work, rather than be superseded by federal involvement.

In addition, I am concerned about the process by which the SEC developed proposed Rule 151A. It is my understanding that the concept release for Rule 151A was issued in 1997 - more than ten years ago. I believe the SEC should have taken, and perhaps still can take, an approach which is more inclusive of stakeholder views and Congressional input on the front end.

I urge you to withdraw this proposed rule or, at the very least, delay its adoption until my concerns and the concerns of other stakeholders, such as the NAIC, have been fully addressed. Thank you for your consideration. I look forward to hearing from you.

Sincerely,


E. Benjamin Nelson
United States Senator

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