

## **Proposed Rule 151A Comments**

I am a State of Florida insurance agent and have two other insurance agents working with me as independent contractors. I employ three clerical staff and also provide work for three tax preparers during tax season.

The proposed rule to make Indexed Annuities register as securities greatly affects my livelihood and the ability for my company to employ others. Indexed Annuities offer a guarantee of principle and a minimum interest rate and therefore are insurance products and not securities. The insurance company takes all risk associated with the actual investment of the capital. Current market conditions are the proof text that customers do not have market risk in an Indexed Annuity.

I have been in the financial services arena for over 26 years. I share the SEC's concern that products be suitable for the customer and are explained properly, fully disclosing all aspects. My office is located in a large retirement community. Almost on a daily basis, I talk with potential customers who have been sold registered investment products that are either not suitable or that they do not understand properly due to the way they were sold. However, suitability, a customer's liquidity needs, and proper disclosures are paramount in the way my office views our sales practices.

Adding another layer of regulation to the National Association of Insurance Commissioners will provide little if any benefit to the consumer. The fact is, securities regulators already fall well short in any effort to protect consumers now. For example, I have potential customers in my office regularly that think their Variable Annuity guarantees a minimum 7% per year in contract value when it is actually a step up death benefit or an income base that is not actual contract value and cannot be withdrawn. They are often extremely upset with they discover that the broker was not truthful with them or at least led them to believe something that was inaccurate. I witness brokers who have cashed in a consumer's Fixed Annuity to buy a Variable Annuity but did not do a 1035 exchange. The broker will have the client run the money through their checking account to buy the Variable Annuity and then check "No" on the Variable Annuity application when ask if it was an exchange of an existing life insurance or annuity contract in an effort to hide where the money came from. Often time, the consumer has to pay tax on the deferred interest from the Fixed Annuity as well as surrender charges. I have people come in who were sold Class C Mutual Funds and not told about the much higher fees associated with the fund but, are only told that all their money goes to work for them without upfront commissions. Variable Annuities are put in IRA accounts without disclosing the potential tax implication of Required Minimum Distribution based partly on actuarial values of guarantees in addition to the previous year end value.

It would be anti competitive for FINRA to have oversight of insurance products including the Indexed Annuity. In my opinion and based on my experience, they are not currently doing enough to protect consumers from improper sales practices in the area of securities they already regulate. Yes, there are abuses in the insurance industry as well, and the States are answering the call to add standards for proper sales practices and disclosure. More oversight by securities regulators will not provide better protection for consumers.

Again, I share the SEC's concern that products and services provided by the financial services industry be suitable to a particular customer's needs and explained thoroughly so the customer can make an informed decision. However, the Self Regulatory Organization (FINRA) of the securities industry has to improve significantly to create better oversight in their own industry.

Indexed Annuities are not securities as evidenced by the principle guarantees, minimum interest rates, and lack of consumer risk. They are already regulated by the National Association of Insurance Commissioners and suitability and sales practice issues are foremost in their oversight.

My business would be greatly impacted by this unnecessary change in regulations and I am sure it would negatively impact the livelihood of many more agents like myself and those that work with me. Thank you for considering my views.

As a person that is "in the field", I would be happy to talk with you further. If I can help by coming and meeting with you personally, I would welcome the opportunity. I may be able to provide a lot of insight in that I speak with consumers daily.

Sincerely,

Mark R Sorensen  
(352) 751-4590