

July 18, 2008

To the Commission:

Cullum & Burks Securities, Inc. favors the SEC's proposal to include Index Annuities under protections afforded by the Securities Act of 1933. Our comments with respect to the Commission's request are expressed below:

Scope of the proposed definition:

- 1) The protection should be afforded to all contracts using the performance of any security or security index to calculate interest credited to the contract whether the issuer is a domestic or foreign entity. The firm believes that protection need not be extended to annuity contracts that are bona-fide fixed interest annuities where no component of a contract's performance is linked to any security or security index.
- 2) The protection should be afforded to any insurance contract that derives its interest crediting method, in whole or in part, on the performance of any security or index of securities. Variable annuities already fall under this definition. A contract that guarantees 100% of principal and also guarantees to pay an annual fixed interest rate of perhaps 80% of the 10-year U.S. Treasury note, but also specifies a minimum annual interest rate of say 1.0% or more, should be considered for exclusion due to the interest rate being fixed once annually and is not tied to the fluctuation in value or performance of that security over the term of the guarantee.
- 3) Our firm has no comment on how the securities should be registered.

Definition of an Annuity Contract:

- 1) The definition of the products considered for protection under the Act should include any contract wherein the interest crediting method to the investor is derived, in whole or in part, by the performance of a security, group of securities or a securities index. Creating a secondary facts and circumstances test for each contract presented establishes a complex and unnecessary cycle to the equation of how the contract will be defined and marketed, possibly creating potential unforeseen loopholes under which certain contracts intended as index annuities could escape definition. Also, since most fixed annuities provide guaranteed values based upon highly conservative assumptions – most bona-fide fixed interest rate annuities, more likely than not, will have maturity payouts higher than their guaranteed rates. Therefore, the secondary definition is unnecessary as the design intention of virtually any annuity contract is to hopefully provide payouts higher than a contracts minimum guaranteed amount.

Determinations under Proposed Rule 151A:

- 1) We do not believe that introducing complex, insurance company calculated, scenario dependent and probable outcome based testing methodologies as a basis for determining whether or not a particular contract should be included or excluded from protection under the Act in the determination process. This creates an opportunity to electively utilize investment periods, crediting strategies and other assumptions that may serve to undermine the very purpose of seeking protection under the Act. The key to determination should be whether any available interest crediting method within the contract is tied, in whole or in part, to the performance of any security, group of securities or securities index.
- 2) Investors purchasing index annuities are often led to believe that the "sizzle" dynamics of the markets are captured in index annuity products and likely anticipate their payouts accordingly. Index annuities are often sold by unregistered individuals that are potentially led to discussing securities concepts and market performance characteristics with public customers when they are inherently unqualified and unlicensed to do so. Interest crediting methodologies have become so complex in some index annuity products that a layperson, customer or agent, can not tell whether any given strategy available to them

will produce meaningful crediting results without substantial research and back-testing. It is the full and fair disclosure provisions under the Securities Act that:

- a.) Should mandate that prospective buyers be provided representative illustrations of how those crediting methods (minus dividends) would have performed under several historical market cycles.
- b.) Clearly disclose that corporate dividend payments and their reinvestment are not factored into the crediting method and reveal in bold illustration how historically significant dividend reinvestment has factored into long term index performance returns.
- c.) Clearly disclose that an insurance company's ability to change key interest crediting parameters such as "Cap Rates," "Participation Rates," or "Spreads" virtually assure that the purchaser will not capture major bull market returns, which is the contracts trade-off for bear market uncertainty. In addition, a prospective buyer should be able to evaluate how a contract would perform under historical market conditions if the insurance company were to reduce such key interest crediting parameters to their contractual minimum values at the contract's first availability to do so, as these are also investor assumed risks not inherent in traditional securities or variable contracts.

Comment on Proposed Definition:

- 1) As discussed above, the "amounts payable" portion of the definition should be eliminated in favor of a simplified definition relating to the linking of an available interest crediting strategy to the performance of any security or a security index.

Determination under Proposed Rule 151A:

- 1) As discussed above, the "amount payable" portion of the definition should be eliminated along with any contingent language of how insurance companies would be required to calculate amounts payable.

Respectfully submitted,

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Compliance Officer

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