

July 30, 2008

Please reject proposed Rule 151A.

I have read the entire 96 pages of the "Executive Summary", and it is loaded with false statements that lead to false conclusions, and frankly, are mis-representations of the facts regarding Fixed Index Annuities.

I particularly find it distressing that this mis-representation which I allege, is the very thing that the SEC is purporting to want to protect consumers from!

On page 5 of the "Executive Summary", you state *"Individuals who purchase indexed annuities are exposed to a significant **investment risk** --i.e. the volatility of the underlying securities index."* This is NOT TRUE. "Investment risk" = "Market risk". Even the most un-sophisticated consumer understands that "market risk" means one can lose the principal if there is a market down-turn. With Fixed Index Annuities one can NOT lose principal to the market!

On page 6 you state *"When the amounts payable by an insurer under an indexed annuity are more likely than not to exceed the amounts guaranteed under the contract, the majority of the **investment risk** for the fluctuating, equity-linked portion of the return is borne by the individual purchaser, not the insurer."* WRONG! Any potential gain is **not an investment risk**. That's like saying "red is blue". It just isn't so. "**Risk**" in the financial world is defined as the possibility of loss. There is NO possibility of loss to the market in an FIA.

In the last paragraph on page 6 of the "Executive Summary", you use the *phrase "providing greater clarity" under the federal securities laws*. All one has to do to get an example of "clarity" under the federal securities laws is to look at a Prospectus for a variable annuity or variable life contract. 50+ pages, nothing but legaleze, and of no help to the consumer, even if he/she reads it!

On page 11 you state *"Indexed annuities typically do not apply negative changes in an index to contract values. Thus, if the change in index value is negative over the course of a crediting period, no deduction is taken from contract value, nor is any index-based return credited."* Therefore, I say there is NO INVESTMENT RISK! Therefore, I say the FIA is NOT a security!

I could go on pointing out errors and inconsistencies in the "Executive Summary", but I'll close with my summary:

- 1) FIA's by any meaningful and correct definitions are NOT securities.
- 2) FIA's are bought by consumers who want safety of principal, "opportunity" to earn interest greater than on traditional fixed interest annuities, CD's, money-market instruments, etc..
- 3) Underlying accounts of FIA's are NOT SEPARATE ACCOUNTS, but are part of insurers' general accounts. Therefore, FIA's are NOT securities, and insurance

companies bare the risks.

- 4) The various state insurance commissions are doing a fine job in requiring suitability, disclosure, and other statements at the time of purchase of FIAs that are meaningful to consumers, unlike the weighty prospecti that are SEC mandated for REAL securities, but no one reads them.
- 5) If consumers have complaints, the state insurance commissioner's office will help much quicker and more efficiently than the SEC, FINRA, etc., and without the need to hire an attorney.
- 6) The only people who will benefit from your re-characterizing FIAs as "securities" are the SEC, FINRA, and Broker/Dealers, who will skim part of our commissions. The consumer and the Registered Rep's are not helped one bit!
- 7) I have been a life insurance agent since 1971, and a Registered Rep. from 1976 to Dec. 31, 2007, when I voluntarily dropped my registration, because of my belief and experience that FINRA and Broker/Dealers are only interested in two things:
A) making life miserable for the Reg. Rep., and B) shaving commissions.
- 8) In all these years I have NEVER had a complaint.

Thank you for your consideration in this matter, and I hope common sense and a sense of genuine interest in helping consumers will lead you to conclude that the SEC & FINRA have enough to do in the securities area without venturing into the "fixed annuity" arena, and PLEASE reject proposed Rule 151A.

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p.s.-If you really want to be of help to consumers, I suggest you authorize and encourage "mini-prospecti" for variable annuities and variable life (2-3 pages), with the offer of a complete prospectus to those who might want one.