

Proposed Rule 151 A has many flaws, including but not limited to the following:

**The SEC should be more concerned with seniors losing 10-20-30% of their nest egg in the stock market than about Fixed Index Annuity sales.** Many elderly relatives of the SEC staff would be demonstrably better off financially right now if they owned FIA's. They would not be worried about losing principal and would not have to gain 25% just to make up for their recent 20% losses in their equity portfolios. More to the point, they would be comforted by the 6% guarantee many of the EIA's have during the accumulation period as a result of popular (optional) Guaranteed Minimum Withdrawal Benefit riders. These seniors would also have guaranteed income for life, if desired. Many seniors who do not own FIA's have been forced to go back to work at minimum wage jobs because they lost much of their life savings in equities.

**The only way a client can lose money in an indexed annuity is if they surrender the policy prematurely.** This is also the case with bank cds and traditional fixed annuities. None of these three products are securities. The client earns between 0-20% per year, but never goes backwards due to market loss. Gains are locked in annually, earnings grow tax deferred, the death benefit avoids probate, and the client has a very real opportunity to receive a rate of return greater than that offered by similar no-risk products.

**FIA's, when properly positioned, provide sufficient liquidity** for most seniors since most agents ensure their clients have sufficient resources elsewhere to cover emergencies. Nursing home, terminal illness, unemployment and death are typical events which waive surrender charges completely. There is also the ability to withdraw 10% of the contract each year without a charge and the ability to annuitize over a five year period if regular income is needed (at approximately 20% per year).

**The magnitude of the sales abuse problem has been overstated: Complaints on FIA sales have been extremely rare, especially if compared to complaints received regarding securities products.** Example: According to the page 4 of the July 28, 2008 Issue of Investment News customer complaints regarding Auction Rate Securities (ARS) "we've fielded nearly 100 calls and emails IN THE LAST 4 DAYS".....referring to the days following a July 17, 2008 announcement that regulators from Missouri and other states "had showed up at Wachovia's office in St. Louis to gather evidence of possible violations related to the sale of ARS". Later in the article it is revealed that at that point Missouri had already received "hundreds" of calls from investors and more than 70 formal complaints had been filed with the state of Missouri alone! According to the March 2008 NAIC Customer Information Source report, FIA complaints for the ENTIRE U.S. for the ENTIRE YEAR of 2007 were only 248, and many of those were for claim handling. That amounts to fewer than 5 product complaints per state per year.

Surrender periods range from one to ten years, with ten being the most popular duration. **Many consumers choose nine or ten year duration to obtain an immediate bonus of approximately 5%, which is retained by the beneficiaries even if death occurs immediately.** Consider the common situation where a 60 year-old son is helping arrange the financial affairs of a terminally ill elderly mother, age 85. Life insurance, the preferred wealth transfer tool, is not available due to her poor health so an annuity with a bonus is often the next best thing. Assuming she has sufficient liquid assets

(let us assume \$350,000), why would the 60 year son, who is also the sole beneficiary, object to a 5-10% premium bonus on day one? If the doctors are correct and she dies within a year or two, he receives ALL premiums, ALL of the bonus and ALL gains in the contract up to the date of death, with NO surrender charge! Mutual funds and CD's cannot compete with this bonus. Surrender charges are rendered almost meaningless in this situation because the objective is wealth transfer and liquidity at death. Do not forget the nursing home provision, which typically waives all surrender charges if the client enters the facility after the contract has been in force for one year.

**The Insurance industry has been aggressively policing the sales of Index Annuities, NOT simply focusing on solvency issues.** 31 States have recently adopted the Model Regulation for Suitability of Annuity Sales developed by NAIC, Annuity Disclosures have been revamped industry-wide, the NAIC has adopted 37 Uniform Resident Licensing Standards and designation restrictions have been implemented to prevent unfair branding of expertise if the requirements to receive the designation are not rigorous enough. Furthermore, Broker-Dealers are already "overseeing" a significant portion of Index Annuity Sales as a result of NTM 05-50. Are the regulators not satisfied with their own performance?

**The FIA is "an annuity", and your attempt to classify it otherwise is not grounded in common sense.** Just because a portion of the gain (the amount above the guaranteed minimum return) varies from year to year does not preclude this product from being classified as an annuity; the principal is guaranteed, a minimum return in addition to the principal is guaranteed, lifetime guaranteed income is available, and the client never suffers loss of principal due to market fluctuation.

**The added cost of increased regulation will leave fewer benefits for the client.**

**Employees of independent agencies nationwide and insurance company personnel will be needlessly laid-off and forced into unemployment.**

Please reconsider your position and find a way to recognize all the hard work that the state insurance regulators have already done to remedy any sales abuses. The product itself is NOT a security.

Thank you for your time and consideration.

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