

## NAIFA ADVOCACY

# NAIFA Questions Indexed Annuities Proposal

SEC rule would classify indexed annuities as securities.

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and Jill Edwards, Assistant Vice President of Federal Government Relations

**N**AIFA has filed extensive comments on the Securities and Exchange Commission's proposed Rule 151A, which would classify most indexed annuities (IAs) as securities. The association is concerned about SEC's attempt to broaden its jurisdiction over products that are more properly treated as insurance products regulated by state insurance departments.

In its comment letter, NAIFA also expressed concern that the proposed rule would not be limited to IAs, and that other annuity and insurance products that fit the rule's criteria could be brought within its scope.

If the proposed rule is adopted, SEC and FINRA would have authority over IA sales, and someone who wishes to market IAs would need a Series 6 or 7 securities license and would be required to have his IA sales supervised by a broker/dealer. An insurance producer license, by itself, would no longer be sufficient.

NAIFA strongly believes that people who engage in unscrupulous or misleading sales practices should be aggressively prosecuted and subject to appropriate and meaningful sanctions. There is no place for these people in our business. However, issues surrounding suitability and marketing practices should not determine whether a product is or is not a security.

In NAIFA's view, IAs do not meet the existing test for determining whether a product is a security. An insurance product that does not meet this test should be



regulated by state insurance departments and should not be under the jurisdiction of SEC or FINRA. This is an important principle that must be preserved to protect the appropriate regulation of all insurance products.

NAIFA is committed to working with state insurance departments to convince every state to adopt and vigorously enforce NAIC's model regulations on annuity suitability and disclosure. In addition, existing state insurance laws addressing unfair trade practices and advertising are powerful weapons to use against inappropriate marketing practices.

Finally, NAIFA also recommended to SEC that a state regulatory body be designated to develop standards for product design that state insurance regulators could use to prevent inappropriate IAs from reaching the marketplace.

## NAIFA's National Council conditionally supports OFC

In other government relations news, NAIFA's National Council has ratified the NAIFA Board of Trustees' recommendation to conditionally support the creation of an optional federal insurance regu-

lator. The vote, which took place during NAIFA's 2008 Convention and Career Conference in San Diego, represents the first time in NAIFA's history that the National Council has voted on a public-policy measure.

It will allow NAIFA to pursue a dual state and federal approach to achieving regulatory reform.

The conditions for NAIFA's support are centered on themes that must be met in order for NAIFA to endorse any specific legislation, such as the National Insurance Act that has been introduced in the House and Senate. Those themes are true agent choice, enhanced consumer protections, the preservation of state-based regulation and the creation of a federal entity with expertise in insurance.

The National Council vote follows an extensive effort to educate and inform NAIFA members about insurance regulatory reform. The effort included placement of various articles in *Advisor Today*, *GovTalk* and *GovWatch*. It also included podcasts, regulatory-reform-specific conference calls, and Town Hall meetings at the National Leadership Conference and during this year's NAIFA convention.

In addition, the association created a website specifically for insurance regulatory reform. The website provides a variety of resources, including frequently asked questions about the three major state and federal regulatory reform initiatives: NAIC's Interstate Compact, NARAB II and the optional federal charter. For more information, go to [www.naifa.org/irr](http://www.naifa.org/irr). **AT**