



STATE OF IOWA

CHESTER J. CULVER
GOVERNOR

SUSAN E. VOSS
COMMISSIONER OF INSURANCE

PATTY JUDGE
LT. GOVERNOR

September 10, 2008

Christopher Cox
Chairman
U.S. Securities and Exchange Commission
100 F. Street N.E.
Washington D.C. 20549-1090

Re: File Number S7-14-08

Dear Chairman Cox:

The Iowa Insurance Division submits these comments on proposed SEC Rule 151A, a proposed rule about which Chairman Cox and Commissioner Voss have met and discussed.

The Iowa Insurance Division not only regulates insurance in the State of Iowa but also regulates securities, and, as such we are a member of the North America Securities Administrators Association. As a member, we do not agree with NASAA's stated position of supporting Rule 151A. As a member, I am troubled with the misinformation that NASAA has provided the SEC in its brief dated August 11, 2008, and I will set forth several areas that I believe are inaccurate in that brief.

Insurance is a major industry in Iowa and its insurance carriers have, in the first quarter of 2008, issued approximately 44% of the premium received on indexed annuities. Between Iowa carriers and Minnesota carriers, the two states have approximately 2/3rds of the indexed annuity premium received.

In the fall of 2005, the Iowa Insurance Division summoned the 5 major Iowa indexed annuity carriers to its offices to discuss the rising market conduct issues relating to the sale of indexed annuities. It also included in that group, two other major carriers that sell a small amount of indexed annuities but who also sell a large amount of other fixed annuity and variable products. After that discussion, Iowa developed a plan to bring more discipline to the market, including support of the NAIC Model Suitability Regulation, which is based on FINRA Rule 2310, except without any limitation concerning age. We invited the Insurance Department of Minnesota to join us in the plan so we could have an influence on carriers with approximately 67% of the market. Minnesota joined us in the endeavor and we worked together to get the carriers to focus on raising the standards of their marketing efforts. Iowa supported the subsequent change in the NAIC Model which removed the age restriction. At the March 2006 National Association of Insurance Commissioners (NAIC) meeting, Iowa set forth its program to the NAIC A and D Committees outlining its program and asked the other Insurance Commissioners to support the plan. Iowa also asked the Insurance Marketplace Standards Association (IMSA) to develop best practices for the sale of indexed annuities which they accomplished in less than 6 months.

In that 2 year period Iowa has taken the following action to raise the standard of market conduct by indexed annuity carriers:

1. Adopted the NAIC Suitability Model Act and advised companies that the regulation places the ultimate responsibility of suitability on the company no matter what distribution system is used by the company.
2. Encourage states to adopt the NAIC Annuity Disclosure Model which Iowa has had on force since 2004.
3. Adopted training requirements for producers which require companies to assure that (a) its producers have completed 4 hours of general indexed product training approved by the Iowa Insurance Division prior to their appointment to sell the individual products of that particular company.
4. Asked that the Insurance Marketplace Standards Association (IMSA) adopt specific best practices for its members to follow in the suitability of sales, disclosure of products and training of agents, which IMSA did and has now broadened to include all annuities. IMSA members are required to apply these best practices in all states in all annuity transactions.
5. Increased our review of indexed products to assure that the companies are providing adequate disclosure, proper advertising and targeting proper buyers before we approve the product.
6. Worked, and are working, on the national level in the NAIC with other states to assure that the highest standard of market conduct on indexed annuity transactions is maintained by the companies, regardless as to whether the state has adopted the suitability and disclosure regulations.
7. Received assurances by the Iowa domestic carriers (44% of the premium) that they are following the heightened standards required by Iowa in all states regardless of whether the state has adopted the model regulations.
8. Worked, and are working, with FINRA on cooperative efforts to harmonize the regulation and oversight of annuity transactions. In that effort, Iowa and FINRA have agreed that FINRA will oversee the sales of variable annuities and that Iowa will rely on FINRA's oversight, that Iowa and FINRA will share information on insurance issues and that FINRA will share training, as much as possible, on annuity suitability and supervision of annuity sales. For example, FINRA has met with NAIC Commissioners and conducted a FINRA session at NAIC meetings this year, and, in September of this year, will help train insurance regulators on suitability issues and examinations.
9. Have been an active member of the Annuity Roundtable Steering Committee which was established after the Annuity Roundtable held in May 2006.
10. Have encouraged NASAAS to work with Insurance Regulators in senior symposiums being held and also sweeps of free lunches but have been unsuccessful in getting such joint work with NASAA, and, have asked NASAA to consider working more closely with insurance regulators in helping to get bad producers out of the market.
11. Partnered with the American Council of Life Insurers (ACLI) to run a one year pilot project with some ACLI members using templates developed for disclosure of indexed and other fixed annuity products. 17 companies are currently enrolled in the pilot project and we are beginning to begin to develop the program to measure the effectiveness of the disclosure templates for the consumer. This is an important program to assure uniformity among companies in the preparation of disclosure documents which most companies are now using nationwide, even to states that do not have disclosure requirements.

I have gone through this litany of actions because I want you to know that insurance regulators have imposed many new standards and practices in the indexed product area in the last two years and are just beginning to have an effect on the indexed annuity market place. Imposition of proposed Rule 151A will have a chilling effect on this activity as companies have to comply with a new regulator in this area while

still meeting the new requirements imposed by states. By Minnesota and Iowa Insurance Regulators taking action through their domestic carriers, we have affected approximately 2/3rds of the indexed annuity market without worrying about what other states have done by formal regulation.

The SEC and NASAA have made statements to the effect that insurance regulators are concerned with insurance carrier solvency and not market conduct issues but you can tell from the above, and by comments from other states and the NAIC, that is not an accurate statement at all. No one has done more in the last two years to change the compliance culture of the annuity carriers, than the carriers themselves and insurance regulators, especially those in Iowa and Minnesota. NASAA also has said that the FINRA requirements on suitability are stronger than the NAIC Suitability Model and that is also very inaccurate. The NAIC Model is based on FINRA's Rule 2310 but covers variable and fixed annuities, individual and group, no matter what distribution system is used, and places the ultimate responsibility on the carrier issuing the policy. It can't get much broader than that. In addition, although FINRA Rule 2821 only applies to variable annuities, we encourage our companies to use the concepts of that rule to develop supervision oversight of the producer's sales. We are in the process of recommending new supervision processes to the NAIC based on Rule 2821 for fixed annuity, including indexed annuity, transactions to the NAIC Suitability Working Group chaired by Wisconsin.

Consequently, it is the Iowa Insurance Divisions position that indexed annuities are clearly insurance products subject to all state insurance laws and with all the risk of loss on the carriers issuing the annuity contract, and not the owner. In addition, with all the actions being taken by the states in this area, Rule 151A, is not necessary and will impede the efforts being made by state insurance regulators to assure proper sales, not only in the indexed annuity area, but in all fixed annuity sales. This will create more confusion and uncertainty in the market place.

In addition, proposed Rule 151A would limit distribution to the broker-dealer distribution system, which would remove the availability of the product to many consumers because everyone does not have, nor do they want, a broker-dealer representing them but would rather work with their insurance producers. With the imposition of the new standards in the marketplace by insurance regulators and the carriers, the removal of the product availability to all consumers is not consumer protection.

I will be available for any additional information you may need in the future.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jim Mumford', with a long horizontal flourish extending to the right.

Jim Mumford
First Deputy Commissioner