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Our President's Response to SEC's Proposed Rule 151A

I have been in the fixed annuity business for almost 40 years. In the past, I was National Annuity Director for a major fixed annuity carrier. My understanding was that since fixed annuities put all the risk on the carrier and provided minimum guarantees and guaranteed annuity purchase rates, it was not a security. My personal read on the current situation regarding fixed index annuities is based on the past 13 years of offerring FIAs to my broker base. Especially after the stock market correction in 2001, broker/dealers saw their reps. selling FIAs instead of VAs or mutual funds. Why? Because clients in FIAs did not lose money after the crash and in fact,depending on the product design,actually kept the interest that was credited in previous years. This is called a “ratchet” provision.Clients in VAs and funds lost tons of money because they bore the risk. FIA holders did not lose because the carrier bore the risk. Since B/Ds did not take a “haircut” on their reps. fixed annuity business (because it wasnt a security product needing supervision) they lost revenue when reps started selling FIAs. Why did the reps. start selling FIAs? Because investors in FIAs didnt get hurt when the market tanked and clients were looking for safety.

As in anything else,there are good and bad products. Also good and bad agents. There are certainly bad FIAs out there-but even with the bad ones the client is not at risk. The good ones provide a guarantee as high as 3% on all assets compounded for all years. If the formula for interest crediting does better than the minimum,the client receives it. The states have and will continue to regulate insurance products and the actions of producers. To limit, through the requirement of a securities license, sales of FIAs to individuals will allow these products to take a far less client friendly (i.e.no more guarantees as we now have) because the risk of loss can then be put on the investor.

In summary, making an FIA a security will help the B/Ds bottom line, insurance carriers and VA sales reps. all at the expense of the investor who now has a principal guarantee along with guaranteed annuity purchase rates and a floor interest guarantee. As a former fixed product designer, I can assure you that the risk, if an FIA it is to be classified as a security, will be borne by the investor. Risk averse investors will have one less product to consider and one which has the highest potential return with zero risk. I see this whole issue as a play by B/Ds to get revenue for doing nothing of value. I have spoken with a number of B/Ds and they HATE FIAs because they cant supervise them and take “haircuts “ on their reps. The reps. LOVE FIAs because they can offer a guaranteed product with no risk and great upside potential.B/Ds like VAs and mutual funds because they earn AUMs each year. They get trail commissions even when a client loses money through mgt fees and loads and 12B1 fees etc. I predict that if FIAs are deemed securities,the B/Ds will force the insurance companies to modify the compensation so they will earn ongoing fees each year on the assets. In essence,investors will take on more risk and pay more for that privilige.

At least postpone the deadline to research these issues in more detail.

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