

## SEC Rule 151A Defeated!

**U.S. Court vacates Rule 151A; and then Congress preempts the SEC, saying indexed annuities are fixed annuities.**

SEC Rule 151A has just been defeated TWICE! On July 12, the U.S. Court of Appeals for the District of Columbia vacated SEC Rule 151A, ending the litigation filed by the Coalition for Indexed Products. This would require the SEC to start all over again on a new 151A. NOW, when the Financial Services Reform conference bill was passed by the U.S. Senate (passed the House before), SEC Rule 151A has finally been defeated by new Federal Law. President Obama has promised to sign the bill, so watch for it to happen soon. This all means fixed indexed annuities will now be kept out of the hands of the SEC.

Most importantly, this represents a legislative victory for all U.S. citizens who save for their retirements and want more choice, more safety, and more competition. Retiring and retired individuals and families will continue to have the opportunity to choose fixed indexed annuities as a long-term savings option that delivers safety of principal, competitive interest accumulation, and guaranteed lifetime income.

This successful outcome was achieved with two years of industry and public grassroots political action to stop the SEC from arrogating the supervision of this insurance product away from the individual States. Over 4,000 individual comments were received by the SEC during the initial comment period, over 80% of them against the then proposed rule. When Rule 151A was made final, a group of indexed annuity carriers and marketing organizations formed the Coalition of Indexed Products and immediately filed suit in Federal court.

The National Association for Fixed Annuities (NAFA), the Independent Financial Advisors Council (IFAC), and the Coalition carriers began a political campaign to overturn the rule by legislation. Agents, advisors, industry employees and the interested public contacted their Congressional Representatives and Senators. Numerous Washington D.C. "Fly-Ins" were held where individual Congressional members were informed face-to-face of the issues and the stakes. Thousands of telephone calls, e-mails, and letters were written and registered. The industry's political action was very powerful, and the political process worked successfully.

Representatives Tom Price (R-GA) and Greg Meeks (D-NY) introduced the initial bill to do so in the House, and Senator Ben Nelson (D-NE) was the initial sponsor in the Senate. Final legislative victory was achieved by Senator Tom Harkin (D-IA) successfully amending the Financial Services Overhaul Bill during the House-

Senate conference process. When President Obama signed the final bill approved by both the House and Senate, Rule 151A was defeated and the SEC preempted.

Creative Marketing's leadership would like to thank all those independent agents and advisors who called, wrote, e-mailed or met with the Representatives and Senators to speak out against SEC Rule 151A and in favor of our legislative solution. We also thank again those who, many months ago, filed their own comments with the SEC against the then proposed Rule 151A. Your arguments in favor of free market choice, State jurisdiction, and the many jobs provided by our small businesses won the day. You are a powerful political force pursuing an important cause.

Undoubtedly, this outcome could not have been achieved without the remarkable 15-year success of the fixed indexed annuity as a safe, guaranteed retirement savings vehicle. No fixed indexed annuity owner has lost as much as one dollar of principal because of market volatility and loss.<sup>1</sup> During this period, we have witnessed the Great Technology Stock bubble and collapse, the 9-11 terrorist attack on New York City, the real estate boom and mortgage industry collapse, two overseas wars, the failure and/or take-over of many of America's largest financial institutions, followed lastly by the Great Recession. Fixed indexed annuities have guaranteed client principal against market loss, and they delivered as advertised. Fixed indexed annuities have delivered very competitive interest returns throughout their history. Fixed indexed annuities are now delivering very competitive lifetime income guaranteed payments. Fixed indexed annuities continue to succeed and will continue to deliver this value proposition in bigger and better ways going forward.

The SEC's claimed needs for their supervision now have been thoroughly discredited. Despite salacious allegations of sales abuse, indexed annuity complaints are remarkably infrequent. Despite pernicious claims of negligent State supervision, the NAIC and individual States continue to require stricter suitability supervision, producer training, and client disclosure. Despite defamatory claims of ignorant advice and unprofessional service from insurance agents, clients continue to choose who to listen to and who to work with toward their own financial goals. Fixed indexed annuities continue to be sold by insurance agents and financial advisors in record volume.

Now that this two-year regulatory cloud has been lifted from the fixed indexed annuity industry, we expect more and better products and benefits, improved suitability supervision, and much more client interest in the product. More carriers may now offer fixed indexed annuities. We certainly expect many new annuity products in the next year or two. We do not know what FINRA or independent broker-dealers will do about product sales supervision, but we do expect change there too.

This is a victory for the “Little Guy.” Clients can continue to choose if they want to put some of their retirement savings into a competitive insurance product. Independent agents and advisors can continue to deliver retirement savings advice and fixed annuity products to a growing clientele. Indexed annuity carriers can successfully fight the takeover efforts of the investment products industry and their regulators. The retirement savings and income security of millions of Americans has been saved from one more large threat.

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<sup>1</sup> Jack Marrion, Advantage Compendium.

Guarantees provided by annuities are subject to the financial strength of the issuing insurance company; not guaranteed by any bank or the FDIC. Guaranteed lifetime income available through annuitization or the purchase of an optional lifetime income rider, a benefit for which an annual premium is charged.

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