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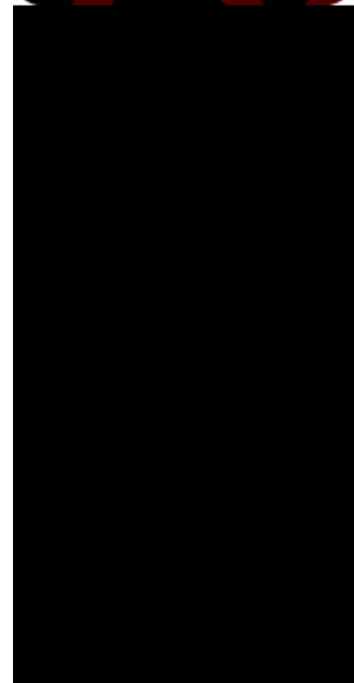
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## U.S. Securities Exchange Commission Adopts Rule 151A

On Wednesday, December 17, 2008, the Securities and Exchange Commission (SEC), by a vote of four to one, adopted Rule 151A that specifically identifies fixed indexed annuities as subject to the jurisdiction of the SEC. The rule adopted does differ from the proposed rule, but the exact terms will not be known until it is published in the Federal Register in early January. The Commission stated that:

- The effective date is January 12, 2011
- The rule was modified to more specifically apply to fixed index annuities only, and
- Products sold before the effective date are not subject to the new regulation.

SEC Commissioner Troy A. Paredes was the lone dissenter. He said, "Not only does Rule 151A seem to deviate from the approach taken by courts, including the Supreme Court, but it also appears to depart from prior positions taken by the Commission. For example, in an amicus brief filed with the Supreme Court in the Otto case, the Commission asserted that the Section 3(a)(8) exemption applies when an insurance company,



regulated by the state, assumes a "sufficient" share of investment risk and there is a corresponding decrease in the risk to the purchaser, such as where the purchaser benefits from certain guarantees. Yet Rule 151A denies the Section 3(a)(8) exemption to an indexed annuity issued by a state-regulated insurance company that bears substantial risk under the annuity contract by guaranteeing principal and a minimum return." [\(Click here to read Mr. Paredes' entire remarks and dissent.\)](#)

House Financial Services Committee Chairman Barney Frank (D-MA) also released this statement on the adoption of a final rule by the Securities and Exchange Commission. "I regret the fact that the SEC has moved ahead in the very last days of an outgoing administration on something this controversial. The President has earlier said he was going to urge that last minute rules of this sort will not go forward, and it is a disservice to the important interests involved here to issue a midnight ruling of this sort. I urged the Chairman of the SEC to withhold, and I am very sorry that he did not respond to a large number of requests to defer action until a new administration can deal with it."

LSW will share more information about the actions it will be taking after the SEC publishes the rule in early January.

**NOTICE:**

LSW's offices will be closed on December 25 and January 1 and will close at 1 p.m. CT on December 24.

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