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Update



January 28, 2009

## Lawsuit Filed Against SEC Over Rule 151A

Recently, a coalition of insurance companies and independent marketing organizations filed suit in federal court to overturn Securities and Exchange Commission Rule 151A, which reclassifies fixed indexed annuities (FIAs) as securities.

The suit was filed in the U.S. Court of Appeals for the District of Columbia Circuit, the court that typically hears cases about new agency regulations. The lawsuit says that the SEC engaged in flawed rulemaking and exceeded its authority by adopting the rule. The lawsuit also claims that the rule is at odds with Congressional intent and prior U.S. Supreme Court precedent.

Aviva USA has been working with the Coalition of Indexed Annuity Carriers in opposition of the rule since it was originally proposed, and we continue to believe that the rule is flawed. While Aviva USA is not a named party in the litigation, the company supports the coalition's efforts and believes that judicial review is appropriate under the circumstances.

"We support this coalition in its reasoning for the suit, which raises legitimate concerns and questions about the rule. Rule 151A should be subject to judicial review," said Mark Heitz, President, Sales and Distribution. "By the same token, we believe it is prudent to be prepared for changes that this rule would bring, and will work to ensure that FIAs and traditional annuities continue to be available to our customers and producers, no matter what the outcome."

FIAs are valuable products that fill an important financial need for many consumers. Today's extremely volatile markets underscore the growing demand for such a product. Throughout this process, it has been Aviva's goal to ensure an effective outcome for its valued distribution partners and policyowners. Beyond this, Aviva is continuing to work to ensure that our producers have a complete portfolio of indexed and traditional fixed annuity products available to meet our customers' needs. To that end, we recently released a new traditional fixed annuity series with our enhanced income rider.

### Next Steps

Since the adoption of Rule 151A, there have been many questions about agent licensing and broker-dealer affiliations. In fact, there may be instances where broker-dealers or other parties attempt to encourage agents to obtain securities licenses and affiliate with a specific broker-dealer. Since 151A will not be effective until January 12, 2011 – and until then licensed insurance agents can continue to sell FIAs – we encourage you to take your time and carefully evaluate all options before you make a decision about a securities license. Please contact us if you have any questions regarding licensing.

Until the rule becomes effective, all of Aviva's distribution partners can continue to offer FIAs to suitable clients until the rule becomes operative. The company will continue to update you on training and support opportunities, leading up to the registration of FIAs, as well as on further additions to its annuity portfolio.

### Thank You

Again, we appreciate your efforts throughout this process. Further, we thank you for your ongoing support of and commitment to Aviva USA. We look forward to continued success throughout 2009.