

CERTIFIED FINANCIAL PLANNER
BOARD OF STANDARDS, INC.

1425 K Street, NW, Suite 500, Washington, DC 20005 P: 800-487-1497 F: 202-379-2299 E: mail@CFPBoard.org W: www.CFP.net

June 17, 2010

The Honorable Barney Frank
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Christopher Dodd
Chairman
Committee on Banking, Housing, & Urban Affairs
U.S. Senate
Washington, D.C. 20515

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Shelby
Ranking Member
Committee on Banking, Housing, & Urban Affairs
U.S. Senate
Washington, D.C. 20515

Re: Oppose Efforts to Preempt SEC Authority Over Equity Indexed Annuities

Dear Chairman Frank, Chairman Dodd, Ranking Member Bachus, and Ranking Member Shelby:

I write to oppose efforts to prevent the Securities and Exchange Commission (SEC) from exercising its authority over equity indexed annuities. These products are often marketed as investment vehicles, and should be subject to the strong investor protections afforded by our nation's securities laws. Unfortunately, a provision offered by Sen. Tom Harkin would strip the SEC of its authority to oversee sales practices in connection with these products. Aside from investor-protection issues, Certified Financial Planner Board of Standards, Inc. (CFP Board) does not believe the provision is germane to the conference. It was not included in either the House or Senate bill, and thus, should not be considered by the conferees.

Equity indexed annuities are securities and should be regulated accordingly. The SEC recognized as much in adopting Rule 151A. Equity indexed annuities are complex investment contracts that link their actual return to a securities index while ensuring a minimum guaranteed return. The U.S. Court of Appeals for the District of Columbia Circuit confirmed the SEC's determination that equity indexed annuities are securities, but remanded the issue to the SEC on procedural, not substantive, grounds. The recent financial crisis demonstrated how inadequate regulation of complex financial products can cause problems throughout our financial system. As more exotic instruments are developed, we should not restrict the SEC's ability to regulate them appropriately.

The SEC adopted Rule 151A in response to numerous complaints about deceptive sales practices involving equity indexed annuities. These sales practices have been the focus of numerous lawsuits, regulatory enforcement actions, and news articles, as well as a Dateline NBC report titled "Tricks of the Trade." In 2009 and 2010, CFP Board surveyed CFP® professionals as to whether they knew or had been approached by a client or prospective client who had experienced fraud or abuse at the hands of a financial advisor. CFP Board received almost 1,600 stories of abuse calling into question practices performed in the financial services industry. Many of those stories involved abusive practices in the sale of equity indexed annuities.



CERTIFIED FINANCIAL PLANNER™

CFP®

Certified Financial Planner Board of Standards Inc. owns these certification marks in the U.S., which it awards to individuals who successfully complete CFP Board's initial and ongoing certification requirements.

For example, an 80-year-old married man, with an estate estimated at \$500,000, was sold an equity indexed annuity with a 17-year surrender period, leaving him unable to withdraw the funds without paying heavy penalties.

The Harkin amendment is contrary to the goals of strengthening investor confidence in American financial markets and enhancing investor protection that are the foundation of the Restoring American Financial Stability Act of 2010. There is no question the best way to ensure adequate investor protections in the sale of equity indexed annuities is to allow the SEC to exercise its appropriate authority over these products. Registration of these products with the SEC will increase disclosure to investors regarding their terms, risks, and costs; deter abusive sales practices; and provide victims with more effective remedies.

I strongly urge you to oppose the Harkin amendment. Thank you for your consideration. If you have any questions, or if CFP Board can provide additional information, please contact Marilyn Mohrman-Gillis, Managing Director, Public Policy and Communications, at (202) 379-2235 or mmohrman-gillis@cfpboard.org.

Best regards,

A handwritten signature in black ink that reads "Kevin R. Keller". The signature is written in a cursive, flowing style.

Kevin R. Keller, CAE
Chief Executive Officer

cc: U.S. Senate and U.S. House of Representatives Conferees