

ARTICLE: “Some Advisers Dismayed By Indexed Annuity Regulation”

PUBLISHED IN: *The Wall Street Journal*

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DATE: July 16, 2010



ORIGINAL ARTICLE CAN BE FOUND AT:

<http://blogs.wsj.com/financial-adviser/2010/07/16/some-advisers-dismayed-by-indexed-annuity-regulation/>

Ms. Maxey,

I am an independent market research analyst who specializes exclusively in the indexed annuity and indexed life markets. I have tracked the companies, products, marketing, and sales of these products for over a decade. I used to provide similar services for fixed and variable products, but I believe so strongly in the value proposition of indexed products that I started my own company focusing on IAs exclusively. I do not endorse any company or financial product, and millions look to us for accurate, unbiased information on the insurance market. In fact, we are the firm that regulators look to, and work with, when needing assistance with these products.

I am contacting you, as the author of an article that was published by *The Wall Street Journal*, “Some Advisors Dismayed By Indexed Annuity Regulation.” This article had a number of inaccurate and misleading statements about indexed annuities in it. I am contacting you in response to these inaccuracies, so that you can address them and ensure that your readers have accurate, unbiased information on these products in the future.

While your article does not say directly that it is the opinion of WSJ that indexed annuities are used for “inappropriate sales,” it certainly reads that way. In actuality, the indexed annuity industry has had a robust annuity suitability program in place since just after the turn of the century. In addition, consumer complaints are certainly not indicative of inappropriate sales. In fact, they illuminate that the indexed annuity market is much more “suitable” than many other markets. See data below from the National Association of Insurance Commissioner’s Closed Complaint Database on annuities:

TOTAL INDEXED ANNUITY COMPLAINTS FOR 2006: 187

TOTAL INDEXED ANNUITY COMPLAINTS FOR 2007: 235

TOTAL INDEXED ANNUITY COMPLAINTS FOR 2008: 220

TOTAL INDEXED ANNUITY COMPLAINTS FOR 2009: 148

Based on our research, this results in average annual complaints as follows:

AVERAGE INDEXED ANNUITY COMPLAINTS PER COMPANY 2006: 4.35

AVERAGE INDEXED ANNUITY COMPLAINTS PER COMPANY 2007: 4.12

AVERAGE INDEXED ANNUITY COMPLAINTS PER COMPANY 2008: 3.86

AVERAGE INDEXED ANNUITY COMPLAINTS PER COMPANY 2009: 3.29

So, not only have complaints on these indexed annuities declined annually for the past three years, but the average has declined consistently for the past four years. Conversely, variable annuity complaints (which are overseen by the Securities and Exchange Commission) have always been greater than the number of indexed annuity complaints, and have risen in recent years. Certainly, we do strive for 100% customer satisfaction in the insurance market, but I would contend that an average of only 3.29 complaints annually, per company, is quite reasonable and not indicative of “inappropriate sales.”

Your description of indexed annuities is quite disingenuous. You are quick to say that they “are tied to the performance of stock indexes,” alluding that the product should be sold by those who sell stocks. However, you leave out the fact that indexed annuities have a minimum 0% annual floor and minimum guarantees, like other fixed annuities (which are sold by insurance agents). These features make them *insurance*, not securities/investments. Indexed annuity purchasers are never directly invested in the market, as these products merely received excess interest *based on the performance* of an outside stock index, such as the S&P 500. When the index goes down, the client receives zero interest. When the index goes up, they receive a gain subject to a limit. This is a value proposition that those directly invested in the market could only WISH they had when the market collapsed in March of 2008.

In addition, indexed annuity purchasers are not referred to as “investors.” Investors purchase investments such as stocks, bonds, mutual funds, and variable annuities- products where you can lose principal and gains due to market fluctuations. These products are regulated by the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA). Indexed annuities are fixed insurance products; similar to fixed annuities and whole life insurance. These fixed insurance products never put the purchaser’s principal or gains at risk due to market volatility. Indexed annuities, like other fixed insurance products, are regulated by the 50 state insurance commissioners of the United States. Together, they form the National Association of Insurance Commissioners (NAIC). Only those who purchase securities/investments, which risk loss of principal and gains, are referred to as “investors.” The NAIC does not (and never has) permitted the use of the word “investment” nor “investor” with fixed insurance products such as indexed annuities.

The Financial Planning Coalition (FPC) is obviously not up-to-speed on the regulation that indexed annuities currently operate under. Indexed annuities have been regulated as fixed insurance products since their introduction to the insurance market on February 5, 1995. There has been no evidence to suggest that the NAIC has done anything but a stupendous job

regulating these products. Indeed the currently regulatory structure that dictates the sales of indexed annuities is very effective. The insurance commissioners regulate indexed annuities with rigorous standard non-forfeiture laws, advertising guidelines, suitability regulations, and other rules. The states hold the authority to take sanctions against insurance agents including, but not limited to, license revocation, penalties and fines. An interesting comparison of state and federal regulation exists relative to annuity complaints specifically. If I need to make a complaint on an indexed annuity, the state insurance division has to respond to me within ten days; and I incur no cost in my efforts to resolve the problem. Compare this with the exhaustive complaint process on the securities side; delays, lawyers, and a lot of my money spent. Yes, SEC regulation is different, but it most definitely is not better than insurance regulation from the consumer's standpoint. In light of this, the states are in a much better position to provide "investor protection," than the SEC is.

It disturbs me that you published Nigel Taylor's comments without fact-checking them.

This is the main reason that indexed annuities have amassed such a negative connotation in the press over the years. "Credible" newsmagazines such as *The Wall Street Journal* perpetuate misinformation on indexed annuities by publishing inaccurate information. Then, other journals point to WSJ when I correct them and say, "Well, if WSJ says it is true, then it must be!" In reality, **very few indexed annuities carry "high sales commissions."** Only seven indexed annuities pay double-digit commissions and sales of these products accounted for less than 2% of total sales for 1Q2010. The average street level commission for indexed annuities is 6.35% as of 2Q2010. This commission is paid one-time, at point-of-sale; please keep this in mind when comparing it to the generous, consistent commissions that are paid on products such as mutual funds. **In truth, there is not a single indexed annuity that pays a commission as high as 14%, contrary to what Mr. Taylor says.** How scary that such a blatant falsehood could be printed in your journal!

What is more, Mr. Taylor is also wrong about indexed annuities' surrender charges. The average surrender charge as of 1Q2010 is ten years, and the average first-year penalty is 10.61% (this penalty declines annually beginning at the end of year one). There are indexed annuities with surrender periods as short as three years and as long as sixteen. **There certainly is not any indexed annuity with a surrender charge of 20 years!** Again- it is alarming how such a fabrication could make its way into a newspaper that so many Americans look to for information on financial services products! The truth is that indexed annuities do not prevent purchasers from accessing "their money without premature-use charges." All annuities have surrender charges whether fixed, indexed, or variable. EVERY indexed annuity permits penalty-free withdrawals of 10% of the annuity's value annually. Some even allow as much as 50% of the annuity's value to be withdrawn in a single year. In addition, 9 out of 10 indexed annuities provide a waiver of the surrender charges, should the annuitant need access to their money in events such as nursing home confinement, terminal illness, disability, and even unemployment. Couple this with the fact these products pay the full account value to the beneficiary upon death, and I think that you'll see that consumers have tremendous access to their cash value when they purchase indexed annuities. These are some of the most liquid retirement income products available today!

If more people understood what surrender charges do for the purchaser, they would appreciate them more. The surrender charge on a fixed, indexed, or variable annuity is a *promise by the*

consumer not to withdraw 100% of their monies prior to the end of the surrender charge period. This allows the insurance company to make an informed decision on which conservative investments to use to make a return on the clients' premium (i.e. 7-year grade "A" bonds for a seven-year surrender charge annuity or 10-year grade "A" bonds for a ten-year surrender charge annuity). Investing the consumer's premium payment in appropriate investments allows the insurance company to be able to pay a competitive interest rate to the consumer on their annuity each year. In turn, it also protects the insurance company from a "run on the money" and allows them to maintain their ratings and financial strength. I personally appreciate the value of the surrender charge on an annuity and if more consumers understood them, they would too. Regardless, Mr. Taylor's uninformed comments are truly unappreciated in terms of commissions and surrender charges on these products.

I appreciate your desire to provide "both sides of the story" with this article, Daisy. I truly do. However, this article falls short of being accurate and unbiased. I humbly extend my services to you, should you have a need for unbiased, accurate information on indexed insurance products in the future. In the interim, I believe that a correction to this article is warranted. I know that *The Wall Street Journal* would not want to disseminate such inaccurate information about ANY financial services product. Regardless of what your sources believe, these products are not what they perceive. We appreciate your accurate reporting of the FACTS, and I look forward to hearing from you.

Thank you.

Sheryl J. Moore

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