

How Does SEC's 151A Ruling Impact Registration as an Investment Adviser?

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Unless amended or delayed, SEC Ruling 151A (151A) causes Fixed Index Annuities (FIAs) to be treated as securities effective January 12th, 2011. Appropriate or not, the manufacturers, distributors, and sellers of fixed index annuities will be subject to an additional layer of regulation from the SEC and FINRA per 151A. As is the case with variable annuities, only broker-dealer registered representatives will be able to offer FIAs to consumers after 151A's effective date. 151A will have a significant impact on the number, type, and quality of FIAs available to consumers and will have a devastating impact on the current marketers and distributors of FIAs.

For current Registered Investment Advisers (RIAs) and for those financial professionals who are considering registration as an investment adviser with their respective state or with the SEC, 151A is not expected to have a *direct* impact. Fee-based investment advice and money management aren't affected by 151A. Fee-based financial planning isn't affected either. In other words, the "RIA part" of a financial services practice shouldn't be affected.

Collateral Damage

However, for financial advisers who offer product recommendations for variable annuities, fixed index annuities, fixed interest rate annuities, long-term care insurance, and life insurance *alongside* financial planning and fee-based money management, significant changes are coming for the "non-RIA part" of such a full service practice. And, to the extent RIA's offer security product solutions, which will include FIAs after 2010, 151A's changes will have an *indirect* impact on how such firms operate and the degree to which RIAs can operate without a broker-dealer relationship. An unexpected outcome of 151A may include a *shotgun marriage* between RIAs and broker-dealers so that RIAs can continue to recommend FIAs. The offspring of such a union may be that the RIA's fee-based money management becomes subject to broker-dealer supervision and *haircuts*. RIAs who also sell fixed index annuities will be faced with the decision to 1. affiliate with a broker-dealer or 2. stop offering fixed index annuities.

Grow or Die

For those brave souls who endeavor to make financial services their career, the upheaval of FIA regulation points toward stricter financial services regulatory oversight. And heightened regulation never travels alone...it will be accompanied by higher operating costs, greater complexity, more licensing and education, and less adviser independence.

Greater costs will mean a larger critical mass is needed...bigger firms will be able to absorb the higher costs while smaller, independent, and one-man-shops will have difficulty competing. Independent financial firms, with or without an RIA firm, may need additional staffing and

additional training and licensing for existing personnel. Greater complexity will hit one-man-shops the hardest. In this environment, a strong support system may be the difference between long-term success and early departure from the financial services business.

Bigger, of course, doesn't mean better and therein lies the opportunity for forward-thinking, entrepreneurial advisers. The recent mega-mergers of banks and brokerage firms do not directly translate to throngs of satisfied customers. Both before and after industry consolidation and regulatory changes, consumers want convenience, objectivity, and expertise from their financial advisers. Amongst all this tumult, independent-minded advisers with the right business model and the right business relationships will find that they can exceed their own expectations. They will be able to compete with the "big boys" and industry consolidators and provide a real value proposition to their prospective clients. To do this, RIAs must be prepared to deal head on with the fallout from 151A.

151A Fallout

RIAs who continue to offer fixed index annuities (under upcoming regulations) will be faced with:

- Stricter Regulatory Scrutiny
- Greater Complexity
- Pressure To Broaden Services
- Greater Liability
- More Time Required Per Client
- Additional Licensing
- Additional Continuing Education
- Reduced Compensation
- Broker-Dealer Supervision
- Broker-Dealer *Haircuts*

151A Solutions

The future of financial services will belong to those who position themselves to attain critical mass, become one-stop-full-service-firms, and market their services aggressively. Winners after 151A will include RIAs and other financial advisory practices that are lean, mean, and ready to compete. A winning 151A strategy will include:

- Developing a Written Business Plan
- Investing in Real Financial Credentials
- Acquiring Additional Licensing Early
- Obtaining Broader Financial Education
- Diversifying Product Lines Offered

- Sharpening Practice Niche and Focus
- Outsourcing Money Management
- Outsourcing Financial Planning
- Outsourcing Operational/Administrative Support
- Stepping Up Marketing Efforts

Leverage is Key

The real key to thriving before and after 151A is for advisers and RIAs to effectively leverage their time. Many of the components of a winning strategy can be found in the right relationships with broker-dealers and annuity marketing organizations. Marketing organizations that distribute annuities should be developing strategies to help their agents. RIAs and advisers need to take advantage of what these organizations offer, and prepare for the impact of 151A before the SEC ruling goes into effect.