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Proposal for Regulatory Reform

Source of Rule: Securities and Exchange Commission

Citation: SEC Release No. 33-6051, "General Statement of Policy Regarding Exemptive Provisions Relating to Annuity and Insurance Contracts"

Description of Problem: The SEC has, by this interpretive release, attempted to substantially amend Section 3(a)(8) of the Securities Act of 1933, by administrative act, in contravention of Congressional intent, and without adding meaningful or needed protection to the insurance-buying public. Without any evidence or showing of abuses, harm to the public, or lack of meaningful state regulation of the business of life insurance and annuities, this Statement of Policy has established a two-pronged test as to the essential characteristics of annuity contracts exempt from registration pursuant to Section 3(a)(8): an assumption by the insurance company of meaningful mortality and significant investment risks. The Release requires registration, under the Securities Act, of certain insurance contracts which have been expressly exempted from the provisions of the Act since 1933. This is a prime example of regulation in search of a purpose.

Estimated Cost/Benefit: not quantifiable.

Other Impact:

1. SEC jurisdiction over insurance products potentially covered by this Release would drastically increase the cost of doing the business of insurance with no corresponding value added to the end product to the consumer, but with additional inflationary pressure resulting from passing these increased costs on to the consumer.
2. Expensive, duplicative, and complex regulation can stifle competition, hinder business innovation, and discourage small companies from entering the business or new markets within it.
3. There is a serious lack of technical insurance and actuarial expertise within the SEC.
4. Expansion of the federal bureaucracy would have to be supported by the already overburdened American taxpayer.

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