

## **Update on Rule 151a Concerning Fixed Indexed Annuities**

On Monday, July 12 the United States Court of Appeals for the District of Columbia vacated SEC Rule 151a in the case of *American Equity v. SEC* (No. 09-121).

The three judge panel vacated Rule 151a in lieu of granting the petitioners' request for a rehearing on the matter, citing the SEC's failure to appropriately "consider the effect of the rule upon efficiency, competition, and capital formation."

This means that the court effectively settled 151a. As far as the judicial branch is concerned, there is not sufficient evidence to suggest that indexed annuities should be regulated as securities.

Rule 151a will not go into effect and jurisdiction to regulate fixed indexed annuities will continue to remain with the states. The SEC has not indicated if it will pursue the matter further, though it has the option of either appealing the decision to the U.S. Supreme Court or rewriting the rule. It should be noted that the Wall Street Reform and Consumer Protection Act (H.R. 4173) set to be passed by Congress into law this week also contained language that would keep regulation of these products within the states.

**For Questions on 151A or on selling Fixed Indexed Annuities; Call our Annuity Department at ext 139**