

Last Lap in SEC RILA Rulemaking: Critical Unresolved Issues

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Congress directed the SEC to adopt a new registration statement for registered indexed annuities (RILAs) by the end of June. Several months ago, the SEC published its proposed registration statement and related rules. As we write this, the SEC seems on track to meet Congress' deadline. The SEC's proposals would relieve significant existing regulatory burdens, and they were generally well received. Nonetheless, as the SEC approaches the finish line, commenters remain concerned about several collateral but critical questions and concerns. We have been following these closely, including:

- Unlike sales materials for variable annuities, RILA sales materials would have to be accompanied or preceded by a statutory prospectus. For the most part, this effectively would prohibit anything but electronic sales materials.
- The SEC proposes permitting RILA issuers to present their financial statements in accordance with the "statutory" accounting principles commonly used by insurance companies. This would not apply, however, to issuers of other non-variable products, such as market-value adjusted annuities (MVAs), contingent deferred annuities, and registered life insurance products, although the SEC suggested it might make the new registration framework available to MVAs as well. Otherwise, the issuers of these other non-variable products would still have the burden of having to present their financial statements in accordance with generally accepted accounting principles, absent individual relief.
- Under existing rules, RILA issuers may publish certain current crediting and other rates on their websites without filing the rates with the SEC. The SEC has proposed requiring these rates to be filed with the SEC. This would impose significant additional burdens on issuers, because they can and do change such rates frequently as market conditions evolve.

- The SEC is taking the view that interim account value adjustments resulting from market performance are costs that must be disclosed as such. We believe this approach mischaracterizes the nature of these adjustments, which are not amounts deducted to reflect any fee or cost but rather are adjustments to reflect changes in valuation based on the market and, as such, can be positive as well as negative.

We will be watching these and other RILA developments closely and provide detailed analyses when the final rules are adopted.

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