MEMO# 24693

November 9, 2010

Withdrawal of Rule 151A Under the Securities Act of 1933

[24693]

November 9, 2010

TO: SEC RULES MEMBERS No. 117-10
SMALL FUNDS MEMBERS No. 72-10
CLOSED-END INVESTMENT COMPANY MEMBERS No. 56-10
VARIABLE INSURANCE PRODUCTS ADVISORY COMMITTEE No. 8-10 RE: WITHDRAWAL OF RULE 151A UNDER THE SECURITIES ACT OF 1933

On October 14, 2010, the Securities and Exchange Commission ("Commission") announced its withdrawal of rule 151A under the Securities Act of 1933. [1] Rule 151A was adopted in January 2009 to clarify the status of indexed annuities under the federal securities law. The Commission's withdrawal of rule 151A follows an appellate court order [2] vacating the rule. [3]

The Commission is also requesting comments by November 13, 2010 on the accuracy of its estimate of the change in the burden for Form S-1 resulting from the court order. The Commission no longer expects that there will be an annual increase of 400 responses on Form S-1, which was necessitated by the adoption of rule 151A, and believes that the estimate of the corresponding burdens for Form S-1 should be decreased by the amount of the burden associated with those 400 responses.

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endnotes

 [1] Indexed Annuities, Securities and Exchange Commission, available at http://www.sec.gov/rules/final/2010/33-9152.pdf.

[2] American Equity Investment Life Insurance Company, et al. v. Securities and Exchange Commission, No. 09-1021 (D.C. Cir., July 12, 2010); Full opinion available at:
 http://pacer.cadc.uscourts.gov/docs/common/opinions/201007/09-1021-1254636.pdf.

[3] For a discussion of the court order, see Institute Memorandum 24499 to SEC Rules Members No. 82-10, dated August 18, 2010, available at
www.ici.org/my_ici/memorandum/memo24499