June 14, 2010

The Honorable Christopher Dodd
Chairman, Committee on Banking,
Housing and Urban Development
U.S. Senate
Washington, D.C. 20510

The Honorable Richard Shelby
Ranking Member, Committee on Banking,
Housing and Urban Development
U.S. Senate
Washington, D.C. 20510

The Honorable Barney Frank
Chairman, Financial Services
Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Spencer Bachus
Ranking Member, Financial Services
Committee
U.S. House of Representatives
Washington, D.C. 20515

Protect Investors and the Legislative Process:
Reject Equity-Indexed Annuities Preemption Amendment

Dear Chairman Dodd, Ranking Member Shelby, Chairman Frank, and Ranking Member Bachus:

We understand that members of the insurance industry continue to press for inclusion in the conference report of anti-consumer legislation to exempt equity-indexed annuities from securities regulation. We are writing to urge you to resist any such efforts.

Equity-indexed annuities are hybrid products that combine elements of both insurance and securities, but they are sold primarily as investments. Indeed, as documented in a seven-part **Dateline NBC hidden camera expose**, they are among the most abusively sold products on the market today. Responding to a rising level of complaints, the Securities and Exchange Commission voted in late 2008 to adopt rules regulating equity-indexed annuities as securities, a move that was immediately challenged in court by the insurance industry. In deciding the case, a U.S. Court of Appeals sided with the agency on the basic issue of whether equity-indexed annuities should be regulated as securities while remanding the rule with respect to procedural issues.

Having failed to prevail in court, the insurance industry has turned to Congress to preempt legitimate securities regulation of this product. We urge you to resist these efforts for the following reasons:

- Equity-indexed annuities are complex products whose returns fluctuate with performance of the securities markets. Absent regulation under securities laws, they can be sold by salespeople with no more understanding of the markets than the customer.

- Although the National Association of Insurance Commissioners has developed a model suitability rule for annuity sales, it has not been adopted in all states. Regulation under securities laws would provide national uniformity, would bring to bear the added regulatory resources of the SEC, state securities regulators, and FINRA, and would provide additional investor protections in the form of improved disclosures and limits on excessive compensation.

- Exempting equity-indexed annuities from securities regulation would set a dangerous precedent and encourage the development of additional hybrid products designed specifically to evade a more rigorous form of regulation.

This highly controversial measure – which is opposed by consumer advocates as well as state and federal securities regulators – was not included in either the House or the Senate bill and is not germane to the underlying legislation. To include it in the conference report would be a gross violation of the integrity of the legislative process. We urge you to protect investors and the legislative process by preventing the equity-indexed annuities provision from being added to the conference report.

Respectfully submitted,

Consumer Federation of America
Fund Democracy
AFL-CIO
A New Way Forward
Arizona Consumers Council
Champaign County (IL) Health Care Consumers
Chicago Consumer Coalition
Consumer Assistance Council
Consumers for Auto Reliability and Safety Consumer
Federation of the Southeast
Gerald J. Thain, University of Wisconsin Law School
National Consumers League
Oregon Consumer League
U.S. Public Interest Research Group
Virginia Citizens Consumer Council

cc: Conferees
Senate Majority Leader Harry Reid
Senate Minority Leader Mitch McConnell
Speaker of the House Nancy Pelosi
House Minority Leader John Boehner