

NAFA undertakes a legislative strategy to overturn Rule 151A

Q&A about NAFA's decision, the process, and results

1. Will NAFA's legislative strategy conflict or in any way deter from the litigation efforts?

Undertaking a legislative strategy—a process by which we seek legislation to overturn Rule 151a issue by adopting a law—in no way deters or conflicts from the litigation efforts. Both strategies are mutually supporting; however, it will be essential to keep both fronts coordinated.

2. Why is NAFA supporting litigation and pursuing a legislative strategy? – Why not just wait for litigation outcome?

NAFA supports both a litigation and legislative effort. However, since the litigation effort is well handled by the current petitioners, NAFA's strength with marketing organization relationships and the relationship with Blank Rome can be best put to use with a legislative effort.

The benefits of the legislative process are twofold: 1) Enacting a federal law has the potential to produce a clearer result; and 2) A federal law may be accomplished in a shorter amount of time and at a lower cost to NAFA. If the insurance industry wins the lawsuit against the SEC, depending upon what the court says in its decision, the ruling may produce a result that is unclear or too narrow leaving certain issues out (e.g. SEC's interpretation of the law going forward). While the lawsuit calendar has been set and granted expedited (fast track) review, the losing side may appeal the court's decision which can add a considerable amount of time to reach a final outcome. It makes also sense to start the legislative process to ensure that future SEC rulemaking will not seek to classify as a security any other fixed annuity and fixed life products that are regulated by state insurance departments when there is no risk of loss to the consumer on the amount paid for the products. Moreover, it may be possible to obtain the desired result more quickly through legislation than through litigation.

3. Why Blank Rome?

The Government Relations committee and NAFA's Board of Directors considered lobbyist firms recommended by its members. After being advised of the work of the Government Relations Committee and being apprised of the many considerations, including experience, expense, legislative connections, past work the Board of Directors after serious deliberation chose Blank Rome Government Relations ("BRGR").

BRGR benefits from nearly 25 professionals with the first-hand knowledge of the legislative and administrative process in Washington. They bring to the table substantive knowledge, significant experience, and a wide range of bipartisan contacts stemming from careers in many corners of government and in the financial services industry.

Blank Rome also has a very strong relationship with our issue's top champion in the House, Representative Greg Meeks. They have already demonstrated an ability to gain excellent and timely intelligence from the Congressman's office and will continue to work closely with him and his staff.

We will take advantage of BRGR's access to senior policymakers to overturn Rule 151a. They work on a daily basis with the congressional financial services and tax writing committees and can ensure that NAFA has the opportunity to make our case before the right committee and Members and generate broad support on our issue.

3. We understand that Meeks' office already had a bill drafted. What's next?

The process requires that Representative Meeks submit to the House Office of Legislative Counsel a draft bill on the Rule 151a issue for review. The Legislative Counsel ("LG") in turn must write the final draft bill. Meeks is currently waiting for the LG office to return a final draft bill to him that can be introduced when he chooses. Once Representative Meeks decides how he wants to proceed, NAFA and Blank Rome will be in a position to secure additional support for the legislation in the House and to work to demonstrate support in the Senate as well.

Representative Meeks plans includes seeking input from the new leadership at SEC to see if the SEC would either overturn the December rule or be supportive of Meeks' legislative initiative to do so. Meeks is awaiting word from the SEC now. Once Representative Meeks decides to move ahead, here are some key points in the legislative process on the House side that lie ahead:

- Other Members of Congress will be asked to support the bill. It will be determined if this bill should be attached to one that is already moving or advanced as a stand-alone measure
- It will need to pass a full Committee vote
- The full House will vote on the bill

Meanwhile, the Senate will undertake a similar process either by introducing its own version of the bill or by taking up the House-passed version. Should the Senate pass their own version of the bill that is different than the House version; a conference will need to take place to iron out the differences.

4. How will the process and strategy be managed?

NAFA has elected a Government Relations Committee whose members are listed below. They will be meeting weekly as a committee and will work in concert with Blank Rome on the strategy and tactical applications. Government Relations Committee, through its chairperson, will report and consult with the NAFA Board. It will also be the main conduit with our NAFA partners who are involved in the litigation.

Danette Kennedy, President Gorilla Compliance, Chair
 Dennis Brown M&O Marketing
 John Branton, Safe Harbor Financial
 Mike Tripses, Creative Marketing
 Nick Gerhart, American Equity
 Paul Kohls, Allianz
 Rich Cohan, AVIVA
 Steve Delaney, American Brokerage Services

5. What will we define as success?

Success is always defined when the client is satisfied with the outcome of a process. In this case, NAFA's success will be achieved when Rule 151a is overturned through litigation, SEC action repealing its December rulemaking, or through the legislative process in which Section 3(a)8 is clarified to apply to all fixed annuity and fixed life products that are regulated by state insurance departments when there is no risk of loss to the consumer on the amount paid for the products. .

2300 E Kensington Blvd ♦ Milwaukee, WI 53211 ♦ 888-884-NAFA

*NAFA was created to promote the awareness and understanding of fixed annuities. It is the only independent, non-profit organization dedicated exclusively to these unique products. Permission to distribute and/or reproduce this document may be given to NAFA members upon request. **Any unauthorized use is strictly prohibited***