

117TH CONGRESS
1ST SESSION

S. 3198

To direct the Securities and Exchange Commission to revise any rules necessary to enable issuers of index-linked annuities to register on a form tailored specifically to registered index-linked annuities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2021

Ms. SMITH (for herself and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To direct the Securities and Exchange Commission to revise any rules necessary to enable issuers of index-linked annuities to register on a form tailored specifically to registered index-linked annuities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Registration for Index-
5 Linked Annuities Act”.

1 **SEC. 2. PARITY FOR REGISTERED INDEX-LINKED ANNU-**
 2 **ITIES REGARDING REGISTRATION RULES.**

3 (a) DEFINITIONS.—In this section:

4 (1) COMMISSION.—The term “Commission”
 5 means the Securities and Exchange Commission.

6 (2) INVESTMENT COMPANY.—The term “invest-
 7 ment company” has the meaning given the term in
 8 section 3 of the Investment Company Act of 1940
 9 (15 U.S.C. 80a–3).

10 (3) MARKET VALUE ADJUSTMENT.—The term
 11 “market value adjustment” means, with respect to a
 12 registered index-linked annuity—

13 (A) an adjustment to the value of that an-
 14 nuity based on calculations using a predeter-
 15 mined formula; or

16 (B) a change in interest rates (or other
 17 factor, as determined by the Commission) that
 18 applies to that annuity after an early with-
 19 drawal or contract discontinuance.

20 (4) PURCHASER.—The term “purchaser”
 21 means a purchaser of a registered index-linked an-
 22 nuity.

23 (5) REGISTERED INDEX-LINKED ANNUITY.—
 24 The term “registered index-linked annuity” means
 25 an annuity—

26 (A) that is deemed to be a security;

1 (B) that is required to be registered with
2 the Commission;

3 (C) that is issued by an insurance com-
4 pany that is subject to the supervision of the in-
5 surance commissioner of the applicable State;

6 (D) that is not issued by an investment
7 company; and

8 (E) the returns of which—

9 (i) are based on the performance of a
10 specified benchmark index or rate; and

11 (ii) may be subject to a market value
12 adjustment if amounts are withdrawn be-
13 fore the end of the period during which
14 that market value adjustment applies.

15 (6) SECURITY.—The term “security” has the
16 meaning given the term in section 2(a) of the Secu-
17 rities Act of 1933 (15 U.S.C. 77b(a)).

18 (b) RULES.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of this Act, the Commis-
21 sion shall propose, and, not later than 18 months
22 after the date of enactment of this Act, the Commis-
23 sion shall prepare and finalize, new or amended
24 rules, as appropriate, to establish a new form in ac-
25 cordance with paragraph (2) on which an issuer of

1 a registered index-linked annuity may register that
 2 registered index-linked annuity, subject to conditions
 3 the Commission determines appropriate.

4 (2) DESIGN OF FORM.—In developing the form
 5 to be established under paragraph (1), the Commis-
 6 sion shall—

7 (A) design the form to ensure that a pur-
 8 chaser using the form receives the information
 9 necessary to make knowledgeable decisions, tak-
 10 ing into account—

11 (i) the availability of information;

12 (ii) the knowledge and sophistication
 13 of that class of purchasers;

14 (iii) the complexity of the registered
 15 index-linked annuity; and

16 (iv) any other factor the Commission
 17 determines appropriate;

18 (B) engage in investor testing; and

19 (C) incorporate the results of the testing
 20 required under subparagraph (B) in the design
 21 of the form, with the goal of ensuring that key
 22 information is conveyed in terms that a pur-
 23 chaser is able to understand.

24 (c) TREATMENT IF RULES NOT PREPARED AND FI-
 25 NALIZED IN A TIMELY MANNER.—

1 (1) IN GENERAL.—If, as of the date that is 18
2 months after the date of enactment of this Act, the
3 Commission has failed to prepare and finalize the
4 rules required under subsection (b)(1), any reg-
5 istered index-linked annuity may be registered on
6 the form described in section 239.17b of title 17,
7 Code of Federal Regulations, or any successor regu-
8 lation.

9 (2) PREPARATION.—A registration described in
10 paragraph (1) shall be prepared pursuant to applica-
11 ble provisions of the form described in that para-
12 graph.

13 (d) RULES OF CONSTRUCTION.—Nothing in this sec-
14 tion may be construed to—

15 (1) limit the authority of the Commission to de-
16 termine the information to be requested in the form
17 described in subsection (b); or

18 (2) preempt any State law, regulation, rule, or
19 order.

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