

117TH CONGRESS
2D SESSION

S. 3198

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

6 (a) **DEFINITIONS.**—In this section:

7 (1) **COMMISSION.**—The term “Commission”
8 means the Securities and Exchange Commission.

9 (2) **INVESTMENT COMPANY.**—The term “invest-
10 ment company” has the meaning given the term in
11 section 3 of the Investment Company Act of 1940
12 (15 U.S.C. 80a–3).

13 (3) **MARKET VALUE ADJUSTMENT.**—The term
14 “market value adjustment” means, with respect to a
15 registered index-linked annuity, after an early with-
16 drawal or contract discontinuance—

17 (A) an adjustment to the value of that an-
18 nuity based on calculations using a predeter-
19 mined formula; or

20 (B) a change in interest rates (or other
21 factor, as determined by the Commission) that
22 apply to that annuity.

23 (4) **PURCHASER.**—The term “purchaser”
24 means a purchaser of a registered index-linked an-
25 nuity.

1 (5) REGISTERED INDEX-LINKED ANNUITY.—

2 The term “registered index-linked annuity” means
3 an annuity—

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

5 (B) that is registered with the Commission
6 in accordance with section 5 of the Securities
7 Act of 1933 (15 U.S.C. 77e);

8 (C) that is issued by an insurance com-
9 pany that is subject to the supervision of—

10 (i) the insurance commissioner or
11 bank commissioner of any State; or

12 (ii) any agency or officer performing
13 like functions as a commissioner described
14 in clause (i);

15 (D) that is not issued by an investment
16 company; and

17 (E) the returns of which—

18 (i) are based on the performance of a
19 specified benchmark index or rate (or a
20 registered exchange traded fund that seeks
21 to track the performance of a specified
22 benchmark index or rate); and

23 (ii) may be subject to a market value
24 adjustment if amounts are withdrawn be-

1 fore the end of the period during which
 2 that market value adjustment applies.

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

6 (b) RULES.—

7 (1) IN GENERAL.—Not later than 180 days
 8 after the date of enactment of this Act, the Commis-
 9 sion shall propose, and, not later than 18 months
 10 after the date of enactment of this Act, the Commis-
 11 sion shall prepare and finalize, new or amended
 12 rules, as appropriate, to establish a new form in ac-
 13 cordance with paragraph (2) on which an issuer of
 14 a registered index-linked annuity may register that
 15 registered index-linked annuity, subject to conditions
 16 the Commission determines appropriate, which may
 17 include requiring the issuer to take the steps de-
 18 scribed in section 240.12h–7(e) of title 17, Code of
 19 Federal Regulations, or any successor regulation,
 20 with respect to the registered index-linked annuity.

21 (2) DESIGN OF FORM.—In developing the form
 22 required to be established under paragraph (1), the
 23 Commission shall—

24 (A) design the form to ensure that a pur-
 25 chaser using the form receives the information

1 necessary to make knowledgeable decisions, tak-
 2 ing into account—

3 (i) the availability of information;

4 (ii) the knowledge and sophistication
 5 of that class of purchasers;

6 (iii) the complexity of the registered
 7 index-linked annuity; and

8 (iv) any other factor the Commission
 9 determines appropriate;

10 (B) engage in investor testing; and

11 (C) incorporate the results of the testing
 12 required under subparagraph (B) in the design
 13 of the form, with the goal of ensuring that key
 14 information is conveyed in terms that a pur-
 15 chaser is able to understand.

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

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

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

5 (3) TERMINATION.—This subsection shall ter-
 6 minate upon the establishment by the Commission of
 7 the form described in subsection (b).

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

10 (1) limit the authority of the Commission to—

11 (A) determine the information to be re-
 12 quested in the form described in subsection (b);
 13 or

14 (B) extend the eligibility for the form de-
 15 scribed in subsection (b) to a product that is
 16 similar to, but is not, a registered index-linked
 17 annuity; or

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

Passed the Senate December 6, 2022.

Attest:

Secretary.

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