

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
JAN 16 2009
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IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMERICAN EQUITY INVESTMENT LIFE
INSURANCE COMPANY, BHC MARKETING,
MIDLAND NATIONAL LIFE INSURANCE
COMPANY, NATIONAL WESTERN LIFE
INSURANCE COMPANY, OM FINANCIAL LIFE
INSURANCE COMPANY, AND TUCKER
ADVISORY GROUP, INC.,

Petitioners,

v.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION,

Respondent.

PETITION FOR REVIEW

Case No. _____

09-1021

The above named petitioners respectfully petition this Court, pursuant to Rule 15(a) of the Federal Rules of Appellate Procedure, Section 9(a) of the Securities Act of 1933, 15 U.S.C. § 77i(a), and Section 706 of the Administrative Procedure Act, 5 U.S.C. § 706, for review of a final rule of the United States Securities and Exchange Commission providing that fixed indexed annuities ("FIAs") are securities which must be registered, offered, and sold in accordance with the requirements of the Securities Act. The Commission adopted this rule ("Rule 151A") at an Open Meeting on December 17, 2008. The final rule release, a copy of which is attached hereto, was published in the Federal Register on January 16, 2009. Indexed Annuities and Certain Other Insurance Contracts; Final Rule, 74 Fed. Reg. 3,138 (January 16, 2009).

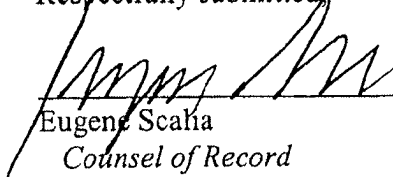
Petitioners ask this Court to hold the Commission's rule unlawful under the Securities Act and Administrative Procedure Act, to vacate the rule and its requirements, to issue a

permanent injunction prohibiting the Commission from implementing and enforcing the requirements, and for such other relief as the Court deems appropriate.

If the Commission does not grant a stay of its action, a motion for expedited review will be filed shortly.

Dated: January 16, 2009

Respectfully submitted,



Eugene Saha

Counsel of Record

Barry Goldsmith

Daniel J. Davis

GIBSON, DUNN & CRUTCHER LLP

1050 Connecticut Ave., N.W.

Washington, D.C. 20036

Telephone: (202) 955-8500

Facsimile: (202) 467-0539

Counsel for Petitioners