

[DISCUSSION DRAFT]

119TH CONGRESS
2^D SESSION

H. R. _____

To require the Securities and Exchange Commission to create forms for non-variable registered annuities and life insurance products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. NUNN of Iowa introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Securities and Exchange Commission to create forms for non-variable registered annuities and life insurance products, 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 “Consumer-Led En-
5 hancement of Annuity and Insurance Registration Forms
6 Act” or the “CLEAR Forms Act”.

1 **SEC. 2. REGISTRATION FORMS FOR RILU, CDA, AND OTHER**
2 **REGISTERED NON-VARIABLE INSURANCE**
3 **CONTRACTS.**

4 (a) IN GENERAL.—The Securities Act of 1933 (15
5 U.S.C. 77a et seq.) is amended by adding at the end the
6 following:

7 **“SEC. 6A. REGISTRATION FORMS FOR RILU, CDA, AND**
8 **OTHER REGISTERED NON-VARIABLE INSUR-**
9 **ANCE CONTRACTS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) CONTINGENT DEFERRED ANNUITY.—The
12 term ‘contingent deferred annuity’ means an annuity
13 contract or rider—

14 “(A) that is a security;

15 “(B) that is registered with the Commis-
16 sion under this Act;

17 “(C) that is issued by an insurance com-
18 pany;

19 “(D) that is not issued by an investment
20 company; and

21 “(E) that establishes a life insurer’s obli-
22 gation to make periodic payments for an annu-
23 itant’s lifetime at the time designated invest-
24 ments, which are not owned or held by the in-
25 surer, are depleted to a contractually defined
26 amount due to—

1 “(i) contractually permitted with-
2 drawals;

3 “(ii) market performance;

4 “(iii) fees or other charges; or

5 “(iv) any other contractually per-
6 mitted triggering event or transaction.

7 “(2) COVERED INSURANCE CONTRACT.—The
8 term ‘covered insurance contract’ means any—

9 “(A) contingent deferred annuity;

10 “(B) registered index-linked life insurance;

11 or

12 “(C) other registered non-variable insur-
13 ance contract.

14 “(3) INVESTMENT COMPANY.—The term ‘in-
15 vestment company’ has the meaning given the term
16 in section 3 of the Investment Company Act of 1940
17 (15 U.S.C. 80a–3).

18 “(4) MARKET VALUE ADJUSTMENT.—The term
19 ‘market value adjustment’ means, with respect to a
20 registered index-linked life insurance, after an early
21 withdrawal or contract discontinuance—

22 “(A) an adjustment to the value of that
23 annuity based on calculations using a predeter-
24 mined formula; or

1 “(B) a change in an interest rate (or an-
2 other factor, as determined by the Commission)
3 that apply to that annuity.

4 “(5) OTHER REGISTERED NON-VARIABLE IN-
5 SURANCE CONTRACT.—The term ‘other registered
6 non-variable insurance contract’ means an insurance
7 contract, certificate, or rider—

8 “(A) that is a security;

9 “(B) that does not constitute an equity in-
10 terest in the issuer of the contract, certificate,
11 or rider;

12 “(C) that is an insurance product subject
13 to regulation under the insurance laws of the
14 domiciliary State or Territory of the issuer of
15 the contract, certificate, or rider;

16 “(D) that is registered with the Commis-
17 sion under this Act;

18 “(E) that is issued by an insurance com-
19 pany; and

20 “(F) that is not issued by an investment
21 company.

22 “(6) PURCHASER.—The term ‘purchaser’
23 means a purchaser of a covered insurance contract.

1 “(7) REGISTERED INDEX-LINKED LIFE INSUR-
2 ANCE.—The term ‘registered index-linked life insur-
3 ance’ means a life insurance policy or rider—

4 “(A) that is a security;

5 “(B) that is registered with the Commis-
6 sion under this Act;

7 “(C) that is issued by an insurance com-
8 pany;

9 “(D) that is not issued by an investment
10 company; and

11 “(E) the returns of which—

12 “(i) are based on the performance of
13 a specified index or other specified bench-
14 mark; and

15 “(ii) may be subject to a market value
16 adjustment if amounts are withdrawn or
17 the contract is discontinued before the end
18 of the period during which that market
19 value adjustment applies.

20 “(b) REGISTRATION FORMS RULEMAKING.—

21 “(1) IN GENERAL.—Not later than 12 months
22 after the date of enactment of this section, the Com-
23 mission shall propose, and, not later than 30 months
24 after the date of enactment of this section, the Com-
25 mission shall finalize, new or amended rules, as ap-

1 appropriate, to establish one or more forms on which
2 an issuer of a covered insurance contract may reg-
3 ister that contract, subject to conditions the Com-
4 mission determines appropriate.

5 “(2) DESIGN OF FORMS.—In developing the
6 forms required to be established under paragraph
7 (1), the Commission shall—

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

12 “(i) the availability of information;

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

15 “(iii) the length of the disclosure re-
16 quired by the forms;

17 “(iv) the complexity of registered
18 index-linked life insurance and contingent
19 deferred annuities; and

20 “(v) any other factor the Commission
21 determines appropriate;

22 “(B) engage in investor testing for contin-
23 gent deferred annuity; and

24 “(C) incorporate the results of the testing
25 required under subparagraph (B) in the design

1 of the forms, with the goal of ensuring that key
2 information is conveyed in terms that a pur-
3 chaser is able to understand.

4 “(3) LIMITATIONS.—In establishing the forms
5 described in paragraph (1), the Commission shall—

6 “(A) limit the disclosures requested by
7 such forms with respect to an insurance com-
8 pany to the disclosures requested by the forms
9 described in sections 239.17b and 239.17c of
10 title 17, Code of Federal Regulations, or any
11 successor regulation; and

12 “(B) specify that the financial statements
13 requested by such forms with respect to an in-
14 surance company are those called for by the in-
15 structions for the financial statements in the
16 forms described in sections 239.17b and
17 239.17c of title 17, Code of Federal Regula-
18 tions, or any successor regulation.

19 “(4) RULE 12h-7 RELIEF.—In issuing the rules
20 required by paragraph (1), the Commission may not
21 impede the availability of relief to issuers described
22 in section 240.12h-7 of title 17, Code of Federal
23 Regulations, with regard to covered insurance con-
24 tracts, that meet the qualifications for such relief.

1 “(5) OTHER RELATED RULES.—To the greatest
2 extent possible, the Commission shall promulgate an
3 overall regulatory and filing framework that is con-
4 sistent with the forms described in sections 239.17b
5 and 239.17c of title 17, Code of Federal Regula-
6 tions, in order to enable issuing insurance companies
7 to offer all of the insurance company’s registered in-
8 surance product offerings on a consistent basis, in-
9 cluding the availability of—

10 “(A) section 230.498A of title 17, Code of
11 Federal Regulations (permitting and pre-
12 scribing the use of summary prospectuses for
13 separate accounts offering variable annuity and
14 variable life insurance contracts, and for the of-
15 fering of registered non-variable annuity con-
16 tracts);

17 “(B) section 270.24f-2 of title 17, Code of
18 Federal Regulations (requiring issuers of cer-
19 tain investment company securities and reg-
20 istered non-variable annuity contracts to pay
21 registration fees under the Securities Act of
22 1933 annually based on the net sales of such
23 securities and contracts); and

24 “(C) sections 230.485 and 230.497 of title
25 17, Code of Federal Regulations (permitting

1 automatic and immediate effectiveness for post-
2 effective amendments and supplements filed by
3 certain registered investment companies and
4 issuers offering registered non-variable insur-
5 ance contracts).

6 “(c) RULES OF CONSTRUCTION.—Nothing in this
7 section may be construed to—

8 “(1) except as described in subsection (b)(3),
9 limit the authority of the Commission to determine
10 the information to be requested in the forms de-
11 scribed in subsection (b); or

12 “(2) preempt any State or Territory law, regu-
13 lation, rule, or order.”.

14 (b) TREATMENT IF RULES NOT PREPARED AND FI-
15 NALIZED IN A TIMELY MANNER.—

16 (1) IN GENERAL.—At the end of the 30-month
17 period beginning on the date of enactment of this
18 Act, if the Commission has not finalized the rules re-
19 quired under section 6A(b)(1) of the Securities Act
20 of 1933, any registered index-linked life insurance or
21 contingent deferred annuity may be registered on
22 the forms described in sections 239.17b and 239.17c
23 of title 17, Code of Federal Regulations, or any suc-
24 cessor regulation, as appropriate.

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

5 (3) DEFINITIONS.—In this section, the terms
6 “Commission”, “contingent deferred annuity”, and
7 “registered index-linked life insurance” have the
8 meaning given those terms, respectively, in section
9 6A(a) of the Securities Act of 1933.

10 (4) TERMINATION.—This subsection shall ter-
11 minate on the date that the Commission finalizes the
12 rules required under section 6A(b)(1) of the Securi-
13 ties Act of 1933.