

State Regulators Eye Complex Products Marketing

September 16, 2014

Joseph P. Borg, Director of the Alabama Securities Commission, and James R. Mumford, First Deputy Insurance Commissioner in Iowa, raised state securities and insurance regulatory concerns at this summer's Insured Retirement Institute Government, Legal and Regulatory conference in Washington, D.C. According to Mr. Borg, structured products, non-traded REITs, and private placements can be problematic without adequate disclosures regarding how the investments work, a problem that may worsen as the number of insurance agents, particularly independent ones, selling unregistered securities products increases. He attributed the problem partly to agents' inadequate training and lack of experience with these products, but noted that, in some cases, agents are engaging in fraudulent activity and mentioned that promissory notes and self-directed IRAs may raise similar concerns due to the lack of reliable valuations. Mr. Borg commented that a 2014 change to Alabama's statute of limitations will facilitate prosecution of securities fraud cases, particularly those involving long-term investments, because the limitations period for securities fraud and other thefts involving deception is now five years after discovery of the deception, not three years from the transaction date. Mr. Mumford reiterated the importance of training to ensure that insurance agents can competently explain the complex products they sell. He stated that, **if the Iowa Insurance Division does not understand how a proposed new insurance product is intended to function, it will require the insurer to explain how agents will be trained to sell the product.** He noted that sales activity without proper license(s) remains a concern, and stressed that Iowa Bulletins 11-4 and 11-S-1 provide guidance to those licensed to sell only insurance, or only securities, regarding the limits on their consumer interactions related to products they are not licensed to sell.

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