Here’s your copy of NAFA’s suit against the DOL

By Editorial Staff *Thu, Jun 9, 2016*

The National Association of Fixed Annuities' suit asks the federal court in the District of Columbia to vacate the DOL’s new fiduciary or conflict-of-interest rule, which could make it harder for insurance agents to sell indexed annuities to IRA owners.

The National Association of Fixed Annuities, which represents primarily manufacturers and distributors of fixed indexed annuities, filed a **complaint** against the Department of Labor in U.S. District Court, District of Columbia, on June 2, only hours after a similar suit was filed in federal court in Dallas, Texas, by financial services trade groups, the U.S. Chamber of Commerce and the Insured Retirement Institute.

With more than $15 billion in sales in the first quarter of 2016, indexed annuities are the strongest-selling product category in the annuity industry. The new rule threatens to regulate the sale of indexed annuities to IRA owners, who represent a multi-trillion-dollar potential market for FIAs, more tightly.

Like the IRI suit, the NAFA suit asks the court to vacate the DOL’s new fiduciary or conflict-of-interest rule, which extends the type of regulation that governs 401(k) plans to IRAs for the first time, thus turning the sale of commissioned products, such as annuities, to IRA owners into transactions that are prohibited except by special exemption.

Unlike the IRI suit, the NAFA suit asks the court for an injunction to halt the implementation of the DOL rule. Among other things, the complaint claims that the DOL changed the rules for selling indexed annuities without warning and without offering the indexed annuity industry a chance to respond, that the DOL didn’t consider the economic impact of its new rule on that industry, and that the DOL failed to adequately define the meaning of “reasonable compensation.”

In drafting the final version of its new rule, the DOL unexpectedly changed the rule under which indexed annuities can be sold to IRA owners from the “Prohibited Transaction Exemption 84-24” to the new “Best Interest Contract Exemption,” or BICE. The BICE requires those sales to be made solely in the clients’ interest, “without regard to” the seller’s compensation, and carries a greater burden of legal accountability for not doing so.