Security Benefit's legal woes over indexed annuities persist

Ten plaintiffs have teamed up in a class action alleging that the insurer misled contract holders about the performance of its proprietary indexes

January 24, 2020 By Emile Hallez

A class-action lawsuit claiming that Security Benefit defrauded its indexed annuity clients by deceptively marketing proprietary index performance reemerged in federal court this week.

The company ***was sued*** over the same issue at least twice late last year, and it appears that the lawsuits have since been consolidated.

"Contrary to Security Benefits' misleading marketing materials, its annuities linked to the synthetic indices would – by design –produce near-zero returns due to misrepresented and undisclosed features, risks, charges and attributes," the plaintiffs said in an amended complaint filed this week in U.S. District Court in the Southern District of Florida.

The case likely has implications for numerous other providers of indexed annuities. Sales of those products exploded over the past decade, as has the percentage of them that use novel indices to calculate returns.

That is in part due to lower returns that investors have come to expect from traditional indexed annuities, which often have "caps" on returns for a given year that can be less than the actual index performance. By comparison, the newer generation of indexed annuities that use proprietary indexes are often marketed as "uncapped," potentially giving investors ***the perception*** that such products are linked to higher returns.

"Insurance companies have been offering hybrid indices on indexed annuities since 2012," said Sheryl Moore, president and CEO of consulting firm Moore Market Intelligence. "Low interest rates and a challenging pricing environment have only fueled allocations to these indexes, which make the potential for earnings on these products appear more attractive."

Sales of those products reached about $6.5 billion for the third quarter of 2019, up from just over $3 billion in the third quarter of 2015, according to data from research firm Wink Inc. And as of the end of 2018, sales represented more than a third of all indexed annuity purchases.

The plaintiffs point to marketing materials from Security Benefit that showed hypothetical returns for the ALTVI Index Account of nearly 39% over five years. However, one plaintiff who selected that option received a credit of 0%, as the index had returned -4.56% over five years, according to the complaint.

The plaintiffs allege that Security Benefit began fraudulently marketing the products after its acquisition by Guggenheim Partners in 2010, which "[rescued] the failing insurance company from the brink of insolvency."

The company's then-new Secure Income Annuity quickly became the top-selling indexed annuity, though that product was later surpassed by its successor, Security Benefit's Total Value Annuity, according to court records.

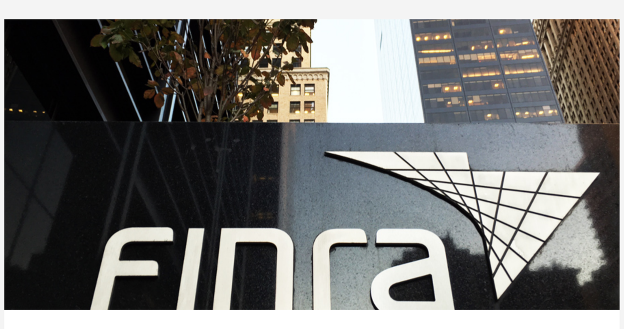
One plaintiff, Howard Rosen, filed his case in October 2019. Another, Ella Clinton, filed a separate case the following month. This week Mr. Rosen was added as a plaintiff in the Clinton case, along with eight other class representatives from around the country.

The plaintiffs are seeking damages, attorneys' fees and other potential awards for the proposed class.

Security Benefit said in a statement that it has "substantial defenses to the claims alleged" and plans to defend itself in court.

The plaintiffs and the proposed class are represented by ***Coral Gables, Fla.-based Moskowitz Law Firm***, Phoenix-based Bonnett Fairbourn Friedman & Balint and San Francisco-based Evans Law Firm.

Latest news



BROKER-DEALERS March 3, 2020

Study shows softening of Finra enforcement last year

By Mark Schoeff Jr.

WIREHOUSES March 3, 2020

UBS CEO Ermotti to become chairman of Swiss Re

401(K) February 28, 2020

401(k) trading spikes amid correction

TECHNOLOGY March 6, 2020

Betterment surpasses $22 billion AUM in 500,000 user accounts

CUSTODIANS March 6, 2020

Pershing's new custody pricing goes head-to-head with Schwab

INVESTMENTS March 6, 2020

Private equity may not be right for HNW clients

BROKER-DEALERS March 6, 2020

Wells Fargo cuts outlook for brokerages amid outbreak

TECHNOLOGY March 6, 2020

Coronavirus will test your firm's tech

BROKER-DEALERS March 6, 2020

SEC poised to release guidance on Reg BI implementation this month

401(K) March 6, 2020

Market plunge tests performance of target-date funds