

STATE LEGISLATIVE BRIEF



The NAIC Annuity Suitability “Best Interest” Model Regulation

- *The NAIC’s Suitability in Annuity Transactions Model Regulation (#275) is designed to protect consumers from abusive and predatory practices by life insurance and annuity producers. Nearly every state has adopted some version of the model.*
- *Recently, the NAIC adopted revisions to the model that incorporate a “best interest” standard of care that requires producers to put the consumer’s interest ahead of their own. The revisions align with the SEC’s Regulation Best Interest.*
- *As millions of baby boomers are set to retire and federal policymakers increasingly look to insurance products to address the lifetime income needs of retirees, state legislators and regulators must demonstrate that they have the authorities and tools necessary to oversee this marketplace.*

Background

Ensuring suitable sales of life insurance and annuity products to consumers of all ages is part of the NAIC’s core mission of protecting the public interest and facilitating the fair and equitable treatment of insurance consumers. To this end, the NAIC initially adopted the *Suitability in Annuity Transactions Model Regulation* in 2003 and has updated it several times since then. Nearly every state has adopted some version of the model.

In February, 2020, the NAIC made significant revisions to the model, following extensive deliberations and input from state insurance regulators, consumer representatives, and the insurance industry. The revisions incorporate a “best interest” standard that requires all recommendations by agents and carriers to be in the interests of the consumer and that consideration of the consumer’s interest must always be placed ahead of any financial interest that the agent or carrier may have in the transaction.

To assure this duty of putting the consumer first, the regulation requires producers and insurers to satisfy requirements outlined in a care obligation, a disclosure obligation, a conflict of interest obligation, and a documentation obligation. The revisions require agents to disclose and answer questions about: their role in the transaction, their compensation, and any material conflicts of interest. The regulation codifies, as a requirement, the good business practice of carefully and clearly explaining to the consumer the basis for a recommendation. This requirement is designed to ensure consumers understand why a product is consistent with their particular financial needs, situation, and objectives. Agents and carriers are required to document, in writing, any recommendation and the justification for such recommendation. Each of these new requirements make this a more robust regulatory framework that strengthens the consumer protections already available under the existing rule.

It is also designed to be consistent with the U.S. Securities and Exchange Commission’s “Reg BI,” which was finalized in June, 2019. Together, these complementary state and federal initiatives will bolster protections for consumers, especially low and moderate balance savers and those seeking guaranteed lifetime income in retirement through annuities.

Key Points

- ✓ The *Suitability in Annuity Transactions Model Regulation* (#275) revisions will allow states to continue protecting consumers by requiring producers to 1) act in the best interest of the consumer when making a recommendation of an annuity and 2) require that insurers maintain a system of supervision so that the insurance needs and financial objectives of consumers are addressed.
- ✓ The revisions align with the SEC’s Regulation Best Interest.
- ✓ Over the next decade, millions of baby boomers will retire. It is imperative that strong standards be in place to ensure they receive clear and appropriate sales, marketing, and financial advice relating to the purchase and management of life insurance policies or annuity contracts from insurers and insurance producers.