NAIFA | Advocacy

NAIFA MINNESOTA

Annuity Suitability in [State]

The revised model law increases consumer protection by raising standard from a suitability standard to a best interest of the consumer standard.

The February, 2020 revisions to the NAIC Suitability in Annuity Transactions Model incorporate a best interest standard of care, are important NAIC consumer protection initiatives that NAIFA encouraged, working directly with the NAIC in the drafting and design of the updates.

Model Regulation 275 – Suitability in Annuity Transaction, was originally adopted in 2010. It established the suitability standard. However, there has been concern about whether a "suitability" standard was sufficient, or if there was a gap between what was "suitable" and what was truly in the "best interest of the client".

The NAIC's Suitability in Annuity Transactions Model Regulation works to ensure that consumers receive valuable information to help them make informed decisions when considering the purchase of an annuity. The best interest standard ensures that customer's interests are put first. It's intended to protect access to advice, choices in how to engage with advisors and to provide clear obligations with respect to disclosures, potential conflicts of interest and knowing the consumers' needs and objectives. Also, the best interest standard establishes enhanced continuing education requirements for annuities producers. This included updated education material and coursework that includes the best interest obligations and requirements.

Annuities are an important element of retirement planning, specifically addressing the risks of outliving one's assets.Longevity risks can be managed using a variety of annuity products and types, depending on the specific needs of the individual and family.

Annuities are unique financial services products designed with the primary purpose to provide lifetime retirement income.

Additionally, there are many highly valuable and customizable components such as additional coverage riders and investment choices.

Annuities are a powerful tool in planning for secure retirement and include a unique benefit of offering a guaranteed lifetime income stream in retirement. As American's are living longer, retirement is also lasting longer. Annuities will continue to be an increasingly critical piece to ensuring financial security during retirement.

- **Care, Disclosure, Conflict of Interest Disclosure, Documentation**

The revised model law provides compliance clarity and financial services consistency by defining four specific obligations

To act in the best interest of the consumer, the producer is required to satisfy four obligations – the care, disclosure, conflict of interest and documentation obligations.

Care

To fulfill the care obligation, a producer is required to exercise reasonable diligence, care and skill to have a reasonable basis to believe a recommended annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives as evaluated in light of the consumer's profile information.

Disclosure

To fulfill the disclosure obligation, a producer is required to prominently disclose to the consumer:

1. a description of the scope and terms of the producer's relationship with consumer.
2. whether the producer is licensed and authorized to sell specified products.
3. a description of the insurers the producer is authorized to sell insurance products for.
4. a description of the sources and types of cash and non-cash compensation to be received by the producer
5. notice of the consumer's right to request additional information regarding cash compensation.

Conflict of Interest

To fulfill the conflict of interest obligation, a producer is required to identify and avoid or reasonably manage and disclose "material conflicts of interest," defined as a financial interest a reasonable person would expect to influence the impartiality of a recommendation. "Material conflict of interest" does not include cash or non-cash compensation.

Documentation

To fulfill the documentation obligation, a producer is required to:

1. make a written record of any recommendation and the basis for the recommendation;
2. obtain signed statements from a consumer relating to the consumer's refusal to provide consumer profile information or to an annuity transaction that is not recommended by the producer.

The model law addresses past "bad practices" that incentivized conflicted advice and provides expanded supervision requirements

The model now requires insurers to establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on sales of specific annuities within a limited period.

Expanded Annuity Training Requirements are included

The model sets enhanced continuing education requirements for annuities. This includes updated education material and coursework that includes the best interest obligations and producer requirements.

A Safe Harbor is included to allow simplicity and consistency amongst rules and regulations

The revised model includes an expansion of the safe harbor for sales made by broker-dealers in compliance with FINRA requirements to include recommendations and sales of annuities made in compliance with "comparable standards" by registered investment advisors and investment advisory representatives, not regulated by FINRA, but subject to fiduciary duties.