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New annuity ‘best interest’ rule from NAIC

By Editorial Staff *Thu, Dec 19, 2019*

The new Model would impose a best interest standard on sales and recommendations by insurance producers of annuity products, which is a higher standard than the currently applicable suitability requirements although it does not rise to the level of a fiduciary duty.

The National Association of Insurance Commissioners (NAIC) is finalizing a model regulation on the sales and recommendations of annuity products by insurance producers. The NAIC’s Life Insurance and Annuity (A) Committee adopted the current exposure draft of the Suitability in Annuity Transactions Model Regulation at the NAIC’s recent Fall National Meeting in Austin.

The adoption is subject to the incorporation of certain technical amendments, which are not intended to be substantive changes to the model and are expected to be completed by the end of 2019.

The model would impose a best interest standard on sales and recommendations of annuity products by insurance producers, which is a higher standard than the currently applicable suitability requirements but not rising to the level of a fiduciary duty.

National Association of Insurance Commissioners is finalizing a model regulation of the sales and recommendations of annuity products by insurance producers.

The Life Insurance and Annuity (A) Committee (the “Committee”) of the National Association of Insurance Commissioners (“NAIC”) adopted the current exposure draft of the Suitability in Annuity Transactions Model Regulation (the “Model”) at the NAIC’s Fall National Meeting in Austin, Texas this past weekend.

The adoption is subject to the incorporation of certain technical amendments which are not intended to be substantive changes to the Model and which are expected to be completed by the end of this year.

The Model would impose a best interest standard on sales and recommendations by insurance producers of annuity products, which is a higher standard than the currently applicable suitability requirements although it does not rise to the level of a fiduciary duty.

A producer would be deemed to have acted in the best interest of a consumer if the producer met obligations of care, disclosure, conflict of interest and documentation, which are detailed in the Model.

The Model would also prohibit an insurer from issuing an annuity product to a consumer unless the insurer had a reasonable basis to believe that the annuity would effectively address the consumer's insurance needs and financial objectives.

Insurers would be required to establish and maintain a system of supervision over producer recommendations which would be designed to achieve the insurer's and producer's compliance with the requirements of the Model, including, inter alia, by providing education and training to producers with respect to the requirements of the Model and its annuity products and by reviewing producer recommendations prior to issuance.

The Model provides for various exemptions from its requirements, such as exemptions for certain group annuities. The Model also provides a safe harbor for sales and recommendations made in compliance with "comparable standards" — e.g., in compliance with applicable securities (SEC and FINRA) requirements in the case of a broker-dealer.