



Electronically Submitted to InsuranceRegReview.mia@maryland.gov

February 28, 2022

Commissioner Kathleen A. Birrane
The Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21202

Re: Draft Regulation: 31.09.12 - Suitability in Annuity Transactions

Dear Commissioner Birrane:

On behalf of our members, the Insured Retirement Institute (IRI)¹ writes in support of the proposal by the Maryland Insurance Administration (MIA) to amend Md. Code Reg. § 31.09.12. We are also writing to reiterate our comments previously provided in our letter dated August 9, 2021, and we appreciate another opportunity to share our feedback.

In order to ensure that the regulation functions in the manner intended by the enhanced NAIC Suitability in Annuity Transactions Model Regulation, we offer the following comments on the proposed amendments:

1. In order to ensure consistency with the NAIC model and avoid confusion, we suggest that proposed section 31.09.12.02(A) Scope be adjusted as follows:

(A) This chapter applies to any sale or~~each recommendation to purchase, exchange, or replace of~~ an annuity ~~made to a consumer by a producer, or an insurer where no producer is involved, that results in the purchase, exchange, or replacement recommended;~~

We do not believe that this change eliminates any important components of the scope, as recommendation is defined in the Definitions section and includes a “purchase, an exchange, or replacement.” Additionally, the definition of a producer includes an insurer if no producer is involved. The NAIC model language has been simplified now that “recommendation” and “producer” are defined elsewhere, and we recommend that the NAIC model language be used in ensure that the regulation functions as intended.

¹ The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., include the top 10 distributors of annuities ranked by assets under management, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

2. In order to ensure consistency with the NAIC model, we recommend that 31.09.12.09 Compliance and Penalties be adjusted as follows:

C. Penalties

(3) Any applicable penalty under [insert statutory citation] for a violation of this regulation may be reduced or eliminated [, according to a schedule adopted by the commissioner,] if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

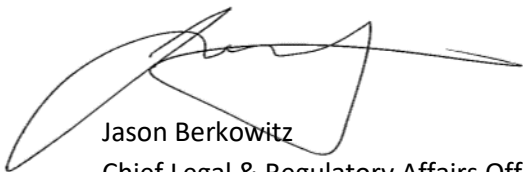
D. The authority to enforce compliance with this regulation is vested exclusively with the commissioner.

It is our understanding that this may be covered elsewhere in Maryland law, and if that's correct, we'd ask if the MIA would be willing to clarify this in a response to comments.

3. In order to ensure consistency with the NAIC Model, we recommend that 31.09.12.07(F) be deleted. While we understand this language is included in a drafting note of the NAIC model, we believe that the language of the NAIC model is sufficient as is without inclusion of the drafting note.
4. Effective implementation of the significant enhancements embodied in the proposal will require substantial efforts by our member companies operating in Maryland. Past amendments to the NAIC model have provided six (6) months for implementation, and we believe the same time period would be appropriate here. We understand that the MIA has communicated to The American Council of Life Insurers that the proposed amendments will take effect no earlier than six (6) months following the date of publication in the register, and we greatly appreciate the clarification provided here. We would ask that this be confirmed in a response to comments or that the implementation date be formally captured in the final regulation.

In conclusion, we are pleased to support the adoption of the proposed amendments to Md. Code Reg. § 31.09.12, and we appreciate your consideration of our recommended changes as described above. Please don't hesitate to reach out with any questions or if there's anything else with which we can assist.

Sincerely,



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