

## Draft Pending Adoption

Draft: 8/9/18

Life Insurance and Annuities (A) Committee  
Boston, Massachusetts  
August 5, 2018

The Life Insurance and Annuities (A) Committee met in Boston, MA, Aug. 5, 2018. The following Committee members participated: Doug Ommen, Chair, and Mike Yanacheak (IA); Jillian Froment, Vice Chair (OH); Jim L. Ridling (AL); Dave Jones and Perry Kupferman (CA); Stephen C. Taylor and Philip Barlow (DC); Ralph T. Hudgens, Jerry Workman and Reyn Norman (GA); Dean L. Cameron (ID); James J. Donelon (LA); Jon Godfread (ND); Bruce R. Ramge (NE); Barbara D. Richardson (NV); Maria T. Vullo (NY); Elizabeth Kelleher Dwyer represented by Matthew Gendron and Sarah Neil (RI); and Allan L. McVey represented by Mark Hooker (WV). Also participating were: Sheri Cullen (MA); Robert Marrow (MD); Mary Mealer (MO); Michael Kakuk (MT); Javier Rivera Rios (PR); Michael Humphreys (TN); Mike Boerner (TX); Todd E. Kiser and Tanji Northrup (UT); and Richard Wicka (WI).

### 1. Adopted its July 19 Minutes

The Committee met July 19 via conference call and took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted 24 *Valuation Manual* amendments that had been adopted by the Life Actuarial (A) Task Force; 3) adopted revisions to the *Life Insurance Disclosure Model Regulation* (#580) removing the *Life Insurance Buyer's Guide* as an appendix to the model; 4) adopted a revised *Life Insurance Buyer's Guide*; and 4) discussed its charge to explore ways to promote retirement security consistent with the NAIC's Retirement Security Initiative.

Commissioner Godfread requested that the participant list to the minutes be revised to reflect his participation, as well as Commissioner Richardson's participation, on the conference call.

Director Froment made a motion, seconded by Commissioner Taylor, to adopt the Committee's July 19 minutes, with the participant list revised as requested by Commissioner Godfread (Attachment One). The motion passed unanimously.

### 2. Adopted the Reports of its Task Force, Working Groups and Subgroup

#### a. Annuity Disclosure (A) Working Group

Mr. Yanacheak said the Working Group met June 4 via conference call. During this meeting, the Working Group discussed illustrating indexes that have been in existence for fewer than 10 years, which is the remaining issue it identified under its charge "to review and revise, as necessary, Section 6—Standards for Illustrations in the *Annuity Disclosure Model Regulation* (#245) to take into account disclosures necessary to inform consumers in light of the innovations in products currently in the marketplace."

Mr. Yanacheak said the Working Group agreed to expose, for a public comment period ending July 1, revisions to Model #245 allowing illustrations of indexes on fixed-indexed annuities that have not been in existence for the previous 10 years. He said the working Group plans to review comments received on Model #245 via conference call sometime in September.

Director Froment made a motion, seconded by Commissioner Taylor, to adopt the report of the Annuity Disclosure (A) Working Group, including its June 4 minutes (Attachment Two). The motion passed unanimously.

#### b. Annuity Suitability (A) Working Group

Director Cameron said the Annuity Suitability (A) Working Group met Aug. 4. During this meeting, the Working Group adopted its May 31 and Spring National Meeting minutes. During its May 31 meeting, the Working Group took the following action: 1) decided not consider suggested revisions to the *Suitability in Annuity Transactions Model Regulation* (#275) that would expand the model's scope to include life insurance products; 2) decided that considering expanding Model #275 to include life insurance products was beyond the scope of its current charge; 3) decided this Committee is the more appropriate forum for such a discussion; and 4) discussed the comments received on Model #275, Section 6—Duties of Insurers and Insurance Producers.

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Mr. Cameron said the Working Group started discussing the comments received on Model #275, Section 5—Definitions, including suggested definitions for the following new terms: “cash compensation”; “consumer”; “intermediary”; and “material conflicts of interest.” He said he anticipated that the Working Group would schedule at least one in-person meeting in order to make sufficient progress on the draft to have it ready for consideration by this Committee at the Fall National Meeting.

Superintendent Vullo said New York has finalized its amended suitability regulation that applies a best interest standard to both life insurance and annuities products. She said she understands that the current revisions to Model #275 do not include life insurance and the current charge does not contemplate including life insurance. She said she continues to believe that life insurance products should be included in the scope of a revised Model #275. She said both life insurance and annuities use the same distribution channels, both incorporate investment products and their sale should be subject to the same standard.

Superintendent Vullo said she would continue to participate in the Working Group’s process. She said she thought it was helpful sometimes to meet in regulator-only session to discuss issues and then expose drafts for comment. She said she did not intend to hold up the revisions, but she would like the Committee to have a full discussion of expanding the scope of the revised Model #275 to life insurance products at the appropriate time. Commissioner Jones and Commissioner Taylor both said they support expanding the scope of Model #275 to life insurance and look forward to discussing the issue at the Committee level. The Committee agreed that it would have a full discussion of the issue at the appropriate time in the future.

Director Cameron made a motion, seconded by Commissioner Donelon, to adopt the report of the Annuity Suitability (A) Working Group (Attachment Three), including its May 31 (Attachment Three-A) and March 24 (*see NAIC Proceedings – Spring 2018, Life Insurance and Annuities (A) Committee, Attachment Two*) minutes. The motion passed unanimously.

### c. Life Insurance Illustration Issues (A) Working Group

Mr. Wicka said the Life Insurance Illustration Issues (A) Working Group met May 1 via conference call. During this meeting, the Working Group continued to make progress in the development of a one- to two-page consumer-oriented policy overview document in order to complete its charge of improving the understandability of the life insurance policy summaries already required in Section 7B of the *Life Insurance Illustrations Model Regulation* (#582) and Section 5A(2) of the *Life Insurance Disclosure Model Regulation* (#580).

Mr. Wicka said the Working Group continues to work through a chart of outstanding issues on which the Working Group needs to achieve consensus. He said draft revisions to Model #580 and Model #582 have been exposed for a public comment period ending Aug. 31. Mr. Wicka said the Working Group’s next steps include revisiting the policy overview template.

Director Froment made a motion, seconded by Commissioner Taylor, to adopt the report of the Life Insurance Illustration Issues (A) Working Group, including its May 1 minutes (Attachment Four). The motion passed unanimously.

### d. Model Law Review (A) Subgroup

Mr. Kakuk said the Model Law Review (A) Subgroup met July 12 via conference call. During this meeting, the Working Group discussed a draft memo from the Subgroup and the Life Actuarial (A) Task Force to this Committee outlining recommendations in completion of its charges.

Mr. Kakuk said the memo explains that, with respect to the *Modified Guaranteed Annuity Model Regulation* (#255), both general account (GA) and separate account (SA) modified guaranty annuities (MGAs) continue to be sold and there are Interstate Insurance Product Regulation Commission (Compact) standards that address both SA and GA MGAs. He said, with respect to the *Annuity Nonforfeiture Model Regulation* (#806), there were no perceived issues with implementing the *Standard Nonforfeiture Law for Individual Deferred Annuities* (#805), such that Model #806 was necessary.

Mr. Kakuk said the Subgroup agreed to have the Task Force review the memo and approve any recommendations before the memo is sent to this Committee for its consideration. He said the Task Force discussed the Subgroup’s memo during its Aug. 3 meeting and had some additional information for the Subgroup to consider in its recommendations. The Subgroup plans to meet via conference call following the Summer National Meeting to finalize the recommendations to bring to this Committee at the Fall National Meeting.

Director Ramage made a motion, seconded by Mr. Hooker, to adopt the report of the Model Law Review (A) Subgroup, including its July 12 minutes (Attachment Five). The motion passed unanimously.

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### e. Life Actuarial (A) Task Force

Mr. Boerner said the Life Actuarial Task Force met Aug. 2–3 and adopted its June 28, June 21, June 14, June 7, May 31, May 24, May 17, May 10, May 3, April 26, April 19 and April 12 minutes. During these meetings, the Task Force took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted various *Valuation Manual* amendments; and 3) adopted a guaranteed issue (GI) mortality table. He said the Task Force also adopted the reports of its subgroups and heard updates from the American Academy of Actuaries (Academy) Life Experience Committee and the Society of Actuaries (SOA) Preferred Mortality Oversight Group (Joint Committee) on the Delphi Study, accelerated underwriting (AUW) and data elements for VM-51, Experience Reporting Formats.

Mr. Boerner said the following items were exposed for public comment periods ending Sept 6: 1) the SOA recommendation for the 2019 Generally Recognized Expense Tables (GRET); 2) amendment proposal 2018-45, which proposes adjustments to company experience mortality rates when company experience is higher than the industry table used for grading; 3) amendment proposal 2018-44, which revises the approach in VM-20, Requirements for Principle-Based Reserves for Life Products, to determine the credited rate for index accounts in the calculation of the deterministic reserve (DR); and 4) amendment proposal 2018-46, which recommends definitions for “product group” and “term life insurance policy.” He said amendment proposal 2018-08, which removes the risk-based capital (RBC) requirement from the life principle-based reserving (PBR) exemption was exposed for a public comment period ending Sept. 21.

Director Froment made a motion, seconded by Commissioner Donelon, to adopt the report of the Life Actuarial (A) Task Force. The motion passed unanimously.

### 3. Adopted a New Charge to Develop an Online Resource on Life Insurance

Commissioner Ommen said he would like to follow up on the discussion started on the Committee’s July 19 conference call. He said, on that call, the Committee adopted a revised *Life Insurance Buyer’s Guide* and revisions to Model #580 removing the guide as an appendix to that model. He said the Life Insurance Buyer’s Guide (A) Working Group had included a recommendation for this Committee to consider adding a charge to develop an online tool for life insurance.

Ms. Mealer gave brief presentation on what the Working Group had discussed with respect to an online tool.

Birny Birnbaum (Center for Economic Justice—CEJ) said he supports the development of an online tool for life insurance. Mr. Birnbaum said this kind of resource could get the right information at the right time in the right medium. He said there is an enormous need for unbiased information, noting that modern technology presents an opportunity to provide information that can be searchable and presented in a way that is not overwhelming. He said consumer testing of whatever tool is developed is essential to achieve the guiding principle of presenting digestible, actionable information in a timely fashion. Mr. Birnbaum also said he agrees the life insurance information should be put in the broader context of retirement security and suggested that there could be parallel efforts.

Bruce Ferguson (American Council of Life Insurers—ACLI) said the U.S. Securities and Exchange Commission (SEC) has an initiative underway to improve consumer understanding and suggested that the NAIC coordinate its efforts with the SEC.

Gary Sanders (National Association of Insurance and Financial Advisors—NAIFA) said an online resource could be helpful, but cautioned that no amount of written information can replace the assistance of insurance producers. Ms. Mealer agreed and said the revised *Life Insurance Buyer’s Guide* encourages consumers to consult an agent or financial advisor. Commissioner Ommen agreed that looking at the current materials on the NAIC website and developing new materials will improve things. Ms. Mealer said she would be willing to continue to chair the Life Insurance Buyer’s Guide (A) Working Group if it were given a charge to work on an online resource for life insurance.

Commissioner Jones made a motion, seconded by Mr. Gendron, to add a charge to “develop an online resource on life insurance, including the evaluation of existing content on the NAIC website, to be published digitally for the benefit of the public.” The motion passed unanimously.

The Committee agreed to change the name of the Life Insurance Buyer’s Guide (A) Working Group to the Life Insurance Online Guide (A) Working Group to better reflect the new charge.

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### 4. Discussed a Work Plan for its Retirement Security Charge

Commissioner Ommen asked for feedback on whether the Committee should develop online resources on retirement security in fulfillment of its charge to “explore ways to promote retirement security consistent with the NAIC’s continuing ‘Retirement Security Initiative.’” He said there is a need for trusted resources on retirement security for consumers beyond the information available through the websites of the SEC, the North American Securities Administrators Association (NASAA) or the Financial Industry Regulatory Authority (FINRA). Commissioner Ommen asked the Committee if it would like to appoint a working group to work on the charge.

Commissioner Ridling raised concerns about creating another working group to develop online resources. He asked who would be responsible for maintaining and updating the information. He also asked whether the working group would have a definitive deliverable or if it would exist in perpetuity.

Superintendent Vullo suggested that the Committee needs a better understanding of the information that already exists other places. She asked whether a new working group would be drafting educational materials or information for the website. Commissioner Ommen suggested that the working group would be collecting, evaluating and developing content that should also coordinate with related NAIC models.

Brenda Cude (University of Georgia) said it is important for the NAIC to coordinate with the information available on other entities’ websites that were mentioned before; i.e., SEC, NASAA and FINRA. Ms. Cude also suggested that a conversation about what the NAIC’s unique contribution to the retirement security conversation should be. Ms. Cude also pointed out that advice on retirement security differs based on life stage.

Mr. Birnbaum said he supports online decision-making tools on retirement security from a disinterested source. He said this is a topic that should be the subject of a permanent NAIC group.

Jason Berkowitz (Insured Retirement Institute—IRI) said he is happy to see the interest in retirement security, adding that the IRI would like to partner with the NAIC in this area.

Mr. Ferguson said an inventory of NAIC workstreams that touch on retirement security was conducted when the NAIC’s Retirement Security Initiative was first launched, and it revealed that there several related efforts in this area. He said a careful inventory of workstreams already in place should be conducted to make sure nothing works at cross-purposes.

The Committee agreed to work on further defining the project in preparation for discussing next steps either on a conference call or at the Fall National Meeting.

### 4. Heard an Update on the Designated Service Provider Issue

Director Ramage gave an update on the designated provider issue. He said the affected parties are engaged in constructive negotiation. He said he would like to revisit the issue, if necessary, at the Fall National Meeting.

Having no further business, the Life Insurance and Annuities (A) Committee adjourned.

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