

SUBMITTED ELECTRONICALLY: jmatthews@naic.org

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NAIC Life Insurance and Annuities (A) Committee
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National Association of Insurance Commissioners (NAIC)
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Hall of the States Building, Suite 700
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***RE: Suitability in Annuity Transactions Model Regulation #275
Exposure Draft dated November 19, 2018***

This letter is submitted by the principals of ten leading Independent Marketing Organizations (IMOs), which comprise approximately 40% of the fixed indexed annuity sales in the independent market. Our organizations have been consistently engaged in the development of an appropriate standard of care for annuity sales for the past several years. Both as individual companies and as members of trade associations, our organizations have actively participated in in-person meetings and submitted comment letters concerning the work of the the NAIC Annuity Suitability (A) Working Group. Now, as the regulatory landscape has changed following the defeat of the Department of Labor’s Fiduciary Rule, we view this as a pivotal moment for leaders in our industry to weigh in from a unified perspective.

First, we appreciate the opportunity to comment on the revised Suitability in Annuity Transactions Model Regulation #275. We applaud the work the NAIC has accomplished and look forward to collaborating with the members of the Life Insurance and Annuities (A) Committee toward developing a reasonable approach to the rule. We fully support the efforts of the NAIC and believe that this body has the appropriate expertise and knowledge above all others to develop a model rule governing annuity transactions for the future. A patchwork set of laws designed by those without the expertise of the NAIC will result in inconsistent regulation that will create more confusion, additional and unnecessary compliance and regulatory oversight challenges, and ultimately wasteful and unnecessary costs for our annuity clients. All stakeholders—consumers and industry—benefited from the NAIC’s previous work to adopt the original suitability model and its subsequent revisions. We think that success can continue in 2019 and beyond.

Our organizations firmly believe that we, and the advisors and insurance professionals with whom we work, already act in the best interests of our clients. For that reason, we believe a common-sense best interest standard should be reflected in the Suitability Model. The best interest standard should be distinguished from the DOL’s ill-fated fiduciary standard. We support a

framework that can realize a best interest standard through a clearly and explicitly defined process that would include appropriate disclosure, thorough needs analysis, and a well-supported recommendation.

As independent businesses that facilitate over 40% of fixed indexed annuity sales in the independent market, our companies are uniquely qualified to comment on the feasibility of any new regulatory standard and we are particularly focused on how advisors and insurance professionals can demonstrate that they have acted in a client's best interests.

The worst result is for an advisor or insurance professional, acting in good faith, to walk out of a meeting with a client unsure of whether he or she has complied with the law and for that answer to be sorted out by a regulator or court sometime in the future. A best interest standard must encompass language that provides process-based guidance to both insurance professionals and regulators to avoid this outcome.

We support a best interest standard that is uniform, practical, and predictable. Each of these key terms should guide the NAIC's development of a process-based approach to a best interest standard as follows:

- Uniform: The language of a best interest standard should provide enough guidance for appropriate conduct so that a patchwork of interpretation does not develop amongst the jurisdictions that adopt the model. The design of the model should assure that like cases will be treated equally across jurisdictions.
- Practical: A best interest standard must be practical so that an insurance professional's business is not unnecessarily disrupted and the insurance professional has the ability and freedom to present or offer appropriate options to the client.
- Predictable: A best interest standard should define the contours of appropriate conduct now, rather than in regulatory actions or litigation in the future. Legal stability and predictability are fundamental aspects of good regulation. Advisors and insurance professionals cannot plan their affairs unless they know the law in advance.

Respectfully, our organizations would appreciate the opportunity to further discuss these issues in-person with the members of the NAIC (A) Committee and Working Group. We are confident that the current exposure draft can be amended so that a critical mass of stakeholders can be satisfied with the ultimate result. We believe in the efforts of the NAIC and that, together, we can develop a new model that will enhance the experience of our clients and promote the many benefits of fixed indexed annuities and working with insurance professionals.

Sincerely,

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Denny Southern, President, Annuities & Retirement Planning, AmeriLife Group, LLC

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