



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

January 22, 2018

Director Dean L. Cameron, Chair
Annuity Suitability (A) Working Group
c/o Jolie H. Matthews
Senior Health and Life Policy Counsel
National Association of Insurance Commissioners
Hall of the States Building, Suite 700
444 North Capitol Street, N.W.
Washington, DC 20001-1512

RE: Draft of Proposed Revisions to the Suitability in Annuity Transactions Model Regulation (#275)

Dear Chairman Cameron:

New York appreciates the opportunity to comment on the proposed amendments to the *Suitability in Annuity Transactions Model Regulation*. New York believes in strong consumer protection standards for the sale of annuity and life insurance products.

On December 27, 2017, New York proposed the First Amendment to 11 NYCRR 224 (Insurance Regulation 187), Suitability in Life Insurance and Annuity Transactions. New York's proposed regulatory amendment (copy attached) implements a "best interest" standard of care for the sale of annuity contracts and life insurance policies with a definition that is substantially similar to the applicable sections of the U.S. Department of Labor's Conflict of Interest Rule, which went into effect on June 9, 2017 and requires adherence to Impartial Conduct Standards.

The New York amendment covers annuity contracts and life insurance, given the versatility and complexity of the products now available and the lack of an existing uniform standard of care. We believe that acting in the "best interest" of the consumer is an appropriate standard for these products, which often are relied on by consumers as retirement security and estate planning. In fact, insurers and producers frequently market permanent life insurance products like Indexed Universal Life, Whole Life and Variable Universal Life as providing tax-advantaged growth and the ability to provide retirement income in addition to a death benefit, blurring the line between insurance and investment products. Moreover, consumers purchasing these products – as well as the more "plain vanilla" Term Life products – could be subject to the

types of conflicted advice that the U.S. Department of Labor sought to eliminate with its Conflict of Interest Rule. The New York amendment also includes a definition of “transaction” that reflects the role insurance producers and insurers often play in providing ongoing recommendations to insurance policyholders.

New York strongly recommends that the Annuity Suitability Working Group propose New York’s First Amendment to Insurance Regulation 187 as a national model regulation. Doing so would provide annuity and life insurance consumers across the United States with strong protections, and provide consistency across the country. New York’s amendment has been proposed with a 60-day comment period, which will end on February 26, 2018. As always, New York will thoroughly review all comments received. As members of the Annuity Suitability Working Group and the Life Insurance and Annuities (A) Committee, New York will continue to engage in productive dialogue with other states to seek to implement a uniform national standard.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria T. Vullo". The signature is fluid and cursive, with the first name "Maria" and last name "Vullo" clearly distinguishable.

Maria T. Vullo
Superintendent of Financial Services