

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

Life Insurance and Annuities (A) Committee April 7, 2019, Minutes

 Annuity Disclosure (A) Working Group March 7, 2019, Minutes (Attachment One)

 Life Insurance and Annuities (A) Committee and Annuity Suitability (A) Working Group April 6, 2019, Minutes (Attachment Two)

 Life Insurance Illustration Issues (A) Working Group Dec. 18, 2018, Minutes (Attachment Three)

 Revisions to the *Life Insurance Disclosure Model Regulation* Draft Dated Oct. 9, 2018 (Attachment Three-A)

 Life Insurance Online Guide (A) Working Group March 18, 2019, Minutes (Attachment Four)

 Center for Economic Justice (CEJ) Outline (Attachment Four-A)

 Brenda Cude Outline (Attachment Four-B)

Draft Pending Adoption

Date: 4/10/19

Life Insurance and Annuities (A) Committee
Orlando, Florida
April 7, 2018

The Life Insurance and Annuities (A) Committee met in Orlando, FL, April 7, 2019. The following Committee members participated: Doug Ommen, Chair, and Mike Yanacheak (IA); Stephen C. Taylor, Vice Chair (DC); Jim L. Ridling (AL); Keith Schraad and Erin Klug (AZ); Trinidad Navarro represented by Fleur McKendell (DE); Dean L. Cameron (ID); James J. Donelon represented by Ron Henderson (LA); Jon Godfread (ND); Bruce R. Ramage (NE); Barbara D. Richardson (NV); Linda A. Laceywell (NY); Jillian Froment (OH); Javier Rivera Rios (PR); Julie Mix McPeak, Michael Humphreys and Lorrie Brouse (TN); and Mark Afable represented by Richard Wicka (WI). Also participating were: Mary Mealer (MO); Sarah Neil (RI); Mike Boerner (TX); and Richard Wicka and Jennifer Stegall (WI).

1. Adopted its 2018 Fall National Meeting Minutes

Commissioner Taylor made a motion, seconded by Commissioner Godfread, to adopt the Committee's Nov. 16, 2018, minutes (see *NAIC Proceedings – Fall 2018, Life Insurance and Annuities (A) Committee*). The motion passed unanimously.

2. Adopted the Reports of its Working Groups and Subgroup

Commissioner Ommen explained that he would like to hear reports from each of the working groups separately, but adopt all the reports in a single motion, allowing for comments from interested parties related to any of the working groups at one time.

a. Annuity Disclosure (A) Working Group

Mr. Yanacheak said the Annuity Disclosure (A) Working Group met March 7. He reported that the Working Group has been trying to reach consensus on revisions to the *Annuity Disclosure Model Regulation* (#245) to allow for the illustration of indices that have been in existence for less than 10 years, which is currently prohibited under Model #245. He said, after discussions by the Working Group in November 2018, Minnesota and Rhode Island agreed to develop additional language for review and discussion by the Working Group. He said a discussion draft dated Feb. 9, 2019, was developed by Minnesota and Rhode Island, then distributed and posted to the Working Group's website for discussion during its March 7, 2019, conference call. He said the primary change in the Feb. 9, 2019, discussion draft from previous drafts is the time frame for allowing the illustration of indices. In order to illustrate an index made up of sub-indices, each sub-index will need to have been in existence for at least 20 years. The Working Group agreed to expose the discussion draft as an official draft for a public comment period ending April 26, 2019. Mr. Yanacheak said the Working Group plans to meet to discuss any comments received and, hopefully, reach consensus so that draft revisions can be brought to the Committee for consideration of adoption by the Summer National Meeting. He also asked the Committee for an extension of the Request for NAIC Model Law Development to continue its work.

b. Annuity Suitability (A) Working Group

Director Froment said the Annuity Suitability (A) Working Group and the Committee met jointly April 6 to hear a presentation on the U.S. Securities and Exchange Commission's (SEC) proposed Regulation Best Interest rule. She said, after discussion, the Committee adopted a motion to have the Working Group continue its work to revise the *Suitability in Annuity Transactions Model Regulation* (#275). As part of its discussions, the Working Group is to consider the presentation; the comments received on the current draft of revisions by the Feb. 15 public comment deadline; and comments from Working Group members, interested state insurance regulators and interested parties heard during its discussions. She said the Working Group is to complete its work as soon as possible, with the Working Group planning to meet in person sometime in May or June.

c. Life Insurance Illustration Issues (A) Working Group

Mr. Wicka said the Life Insurance Illustration Issues (A) Working Group met Dec. 18, 2018. He said the Working Group continues to develop a simplified one- to-two-page consumer-oriented policy overview document to complete its charge. He explained that the Working Group was initially working on revisions to both the *Life Insurance Disclosure Model Regulation* (#580) and the *Life Insurance Illustrations Model Regulation* (#582). However, the Working Group agreed to take a more simplified approach, revising only Model #580 to require a policy overview document to be distributed along with the *Life Insurance Buyer's Guide* (Buyer's Guide) and all life insurance policies. He said draft revisions incorporating this new

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approach dated Oct. 9, 2018, were exposed for a public comment period ending Dec. 10, 2018. He explained that during its Dec. 18, 2018, conference call, the Working Group discussed comments that had been received and agreed to revise the Oct. 9, 2018, draft based on discussions during the Dec. 18, 2018, call. He said the Working Group agreed to begin working on a sample policy summary next. Additionally, he requested an extension of the Request for NAIC Model Law Development so the Working Group can continue its work.

d. Life Insurance Online Guide (A) Working Group

Ms. Neil said the Life Insurance Online Guide (A) Working Group met March 18. The Working Group reviewed its 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 Working Group reviewed an alternative “chart” format for presenting information that was submitted by the American Academy of Actuaries (Academy). She said the Working Group liked the Academy’s chart but agreed to focus first on the content of the guide before moving on to the best way to organize and present the information in an online format. To that end, the Working Group discussed a list of topics to include, and several volunteers agreed to draft language for the Working Group to review. She said the Working Group plans to meet via conference call following the Spring National Meeting to continue its work.

e. Heard Comments

Birny Birnbaum (Center for Economic Justice—CEJ) said the work of the various disclosure and information workstreams should be coordinated to ensure support for the overall goal of the Retirement Security Initiative, to preserve and enhance consumer assets for lifetime income and well-being. He said the disclosure and information workstreams should ensure consumers have the relevant information, at the right time, and in a format that empowers the consumer to make timely and informed decisions about the purchase and use of life insurance and annuity products. He said this is important not only for consumer protection, but also to avoid the periodic scandals in the life insurance industry regarding improper or unsuitable sales.

Mr. Birnbaum requested that the Committee review the timing of delivery of the policy overview document being developed by the Life Insurance Illustration Issues (A) Working Group. He said the delivery of the policy overview document and the Buyer’s Guide should occur prior to delivery of the policy. He said this is an example of getting the relevant information (i.e., tools for comparative shopping) to the consumer at the right time (i.e., prior to purchase) and in the right format (i.e., a consumer-tested, brief overview that facilitates understanding of the key features of the product and permits comparative shopping through consistency of presentation for similar products across insurers). He said the current requirement states that delivery of the policy overview and a Buyer’s Guide can be as late as delivery of the policy, which contradicts the purpose of Model #580.

Mr. Birnbaum also requested that the Committee direct the IUL Illustration (A) Subgroup under the Life Actuarial (A) Task Force to address immediate repair needs of *Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest* (AG 49) to stop the “gaming” of AG 49 through product design intended solely for gaming illustrations; i.e., the use of multipliers and policy loan features. He asked the Committee to provide guidance to the Subgroup, because there are products being sold today with grossly misleading illustrations and bad consequences for consumers and fair competition. He said companies that do not want to game illustrations are at a competitive disadvantage to those willing to do so.

Mr. Birnbaum also asked the Committee to open Model #582 in order to revise the basic approach to illustrations. He said he would like for illustrations to: 1) better present the value of the product as insurance; 2) better educate consumers as to the risks associated with volatility of returns; 3) move toward convergence with the illustration regime for annuities; and 4) use consumer testing to help ensure the illustrations are effective at empowering consumers on critical issues.

Mr. Birnbaum said Georgians for a Healthy Future (GHF), on behalf of a group of NAIC consumer representatives, contracted with Kleimann Communication Group (Kleimann) to test consumer understanding of a short-term health insurance plan. He asked the Committee to review the resulting report titled, “Report on Testing Consumer Understanding of a Short-Term Health Insurance Plan.” He said the short-term health insurance plan tested was not nearly as complicated as the investment type, indexed life insurance and annuity products that are the subject of the Committee’s working groups’ activities, but the consumer testing found more than half of participants misunderstood the concept of a short-term health insurance plan and often made incorrect assumptions about what was covered under the plan.

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Mr. Birnbaum said he is certain consumers misunderstand illustrations and make false assumptions about complex life insurance and annuity products. He said Model #582 should be revised to alert consumers to the risks of return volatility on the operation of their life insurance product. He said Model #582 should be revised to move toward convergence with Model #245, to the extent that differences in the products permit.

Commissioner Taylor made a motion, seconded by Commissioner Ridling to: 1) adopt the report of the Annuity Disclosure (A) Working Group, including its March 7 minutes (Attachment One) and an extension of the Request for NAIC Model Law Development for Model #245; 2) adopt the report of the April 6 joint meeting of the Annuity Suitability (A) Working Group and the Committee (Attachment Two); 3) adopt the report of the Life Insurance Illustration Issues (A) Working Group, including its Dec. 18, 2018, minutes (Attachment Three) and an extension of the Request for NAIC Model Law Development for Model #580; and 4) adopt the report of the Life Insurance Online Guide (A) Working Group, including its March 18 minutes (Attachment Four). The motion passed unanimously.

3. Adopted the Report of the Life Actuarial (A) Task Force

Mr. Boerner said the Life Actuarial (A) Task Force met April 4–5, 2019, and adopted its March 14, 2019; March 7, 2019; March 6, 2019; Feb. 28, 2019; Feb. 21, 2019; Feb. 14, 2019; Feb. 7, 2019; Jan. 31, 2019; Jan. 24, 2019; and Dec. 13, 2018, minutes. During these meetings, the Task Force took the following action: 1) adopted its 2018 Fall National Meeting minutes; 2) adopted an amendment to clarify details of the stochastic exclusion test (SET); 3) adopted an amendment to clarify net premium reserve (NPR) term lapse rate rules; 4) adopted an amendment to revise the index credited rate for the deterministic reserve (DR) scenario for indexed universal life (IUL); 5) adopted amendments to address the recommendations from the Valuation Analysis (E) Working Group memorandum titled, “Principle-Based Reserves (PBR) Recommendations and Referrals to LATF”; and 6) exposed several revisions in response to the Variable Annuities Issues (E) Working Group charge to implement the Variable Annuities (VA) Framework.

Mr. Boerner said the Task Force also adopted the reports of the Variable Annuities Capital and Reserve (E/A) Subgroup, the VM-22 (A) Subgroup, the Experience Reporting (A) Subgroup, the IUL Illustration (A) Subgroup and the Longevity Risk (A/E) Subgroup. He said the Task Force adopted several technical amendments on PBR reporting and heard updates from several groups, including the Society of Actuaries (SOA), the American Academy of Actuaries (Academy) and the Interstate Insurance Product Regulation Commission (Compact).

Commissioner Ommen suggested to Mr. Boerner that in recognizing the continued concerns about IUL illustrations, including concerns Mr. Birnbaum expressed during this meeting that some illustrations for products with multipliers have a tendency to inflate consumer expectations, the IUL Illustration Subgroup should prioritize its evaluation of whether AG-49 has been effective in achieving its intended purposes.

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

4. Discussed the Retirement Security Initiative

Commissioner Taylor said he is looking forward to leading the Committee’s efforts in exploring ways to promote retirement security consistent with the NAIC’s continuing Retirement Security Initiative. He said retirement security is a major national concern in the U.S., with significant impacts for the insurance sector. He said Americans face significant obstacles in preparing and saving for a financially secure retirement. Many Americans are dramatically under-saved.

Commissioner Taylor said insurance products can play an important part in overcoming these challenges. Retirement security encompasses a broad spectrum of financial tools, including many insurance-related products and services such as life insurance, annuities and long-term care insurance (LTCI). The marketing and sales of these products are also areas that fall under the retirement security umbrella. State insurance departments and the NAIC can play an important role in helping American consumers prepare for financial security, as insurance is a key part of a comprehensive retirement plan.

Commissioner Taylor said he would like to focus on three major areas: education; consumer protection; and innovation. He would like to identify regulatory or policy issues in need of review, as well as highlight barriers to innovation, product delivery and compliance.

Commissioner Taylor said in the area of education, he would like to help consumers understand the insurance implications of retirement planning at all life stages. He said insurance education is the first and best resource for consumer protection. He said

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he would like to focus on encouraging smart insurance choices by providing information specific to life stage, life event or kind of policy.

Commissioner Taylor said in the area of consumer protection, he would like to focus on updating NAIC model acts and regulations and finding ways to address fraud and other unlawful practices affecting consumers. He said he would like to ensure laws and regulations are meeting public policy needs. He said models on annuities, suitability and disclosure, as well as senior specific designations and certifications, are all designed to protect individuals as they reach retirement age.

Commissioner Taylor said another area of focus is innovation. He said he would like to work to identify and address areas to enhance laws and regulations to promote and encourage innovation in the insurance industry. He said he is committed to exploring how to support products that best serve consumers, monitoring the market regulatory process for continuous improvement, and striving to ensure the availability and affordability of insurance.

Commissioner Taylor said he would like to appoint a working group to develop a work plan to promote and engage with this topic.

Commissioner Ommen said this is an opportunity to take a more comprehensive look at the educational materials already available and develop some consistency.

Ms. Neil suggested coordinating with state public information officers, as they can serve as good resources and assist in the dissemination of any educational materials developed.

Commissioner Godfreed suggested that any new retirement security-focused working group should be mindful of the work of other committees and working groups, such as the Innovation and Technology (EX) Task Force.

Mr. Birnbaum said the goal of any retirement security effort should be to preserve and enhance consumer assets for lifetime income and well-being. He said education is essential to help ensure consumers understand their lifetime risks and the value of products designed to assist consumers in this endeavor. He said consumer protection is essential to help ensure that insurance products serve consumer needs instead of stripping consumer assets and thwarting retirement security. He said meaningful consumer protection must include the oversight of products to ensure value to the consumer, and must include information and disclosure that is empowering, rather than misleading, to consumers. He said innovation is essential to developing the good value products and product delivery mechanisms to meet consumer needs.

Mr. Birnbaum said innovation should not be an excuse for deregulation or lax consumer protections for consumer privacy, control of personal information, value of products or transparency of products. He stressed the importance of good consumer value measured in objective terms—such as a benefit ratio—to promote the goals of retirement security. He said assuming that any life insurance or annuity product will help consumers achieve retirement security is as misplaced as thinking any mortgage product would promote homeownership. He said the financial crisis showed that poor value or abusive products can harm consumers and thwart public policy goals. He said just as consumer credit insurance product regulation requires that benefits be reasonable in relation to premiums or price charged, it is at least as important for products that commit a consumer's lifetime savings to show a strong value for the consumer.

Commissioner Ommen asked volunteers to contact Jennifer Cook (NAIC) to participate in this effort.

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

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Draft: 3/28/19

Annuity Disclosure (A) Working Group
Conference Call
March 7, 2019

The Annuity Disclosure (A) Working Group of the Life Insurance and Annuities (A) Committee met via conference call March 7, 2019. The following Working Group members participated: Mike Yanacheak, Chair (IA); Chris Struk (FL); Tate Flott and Craig Van Aalst (KS); Nour Benchaaboun (MD); John Robinson (MN); Andrew Schallhorn (OK); Sarah Neil and Raymond Santilli (RI); and Doug Danzeiser (TX). Also participating were: Perry Kupferman (CA); Jason Lapham (CO); Tracy Swalwell (IA); William Leung (MO); Robert E. Harkins (NE); Denise Lamy (NH); Tynesia Dorsey (OH); Jill Kruger (SD); Tanji Northrup (UT); James Young (VA); and David Hippen (WA).

1. Reviewed the Status of its Work

Mr. Yanacheak said the Working Group last met via conference call Nov. 2, 2018. The Working Group had planned to vote on draft revisions to the *Annuity Disclosure Model Regulation* (#245) developed by the American Academy of Actuaries (Academy) and Mr. Robinson addressing illustrations of indices that have been in existence for less than 10 years. However, during the Nov. 2, 2018, conference call, a few new issues surfaced, and a small drafting group agreed to develop additional language for review by the Working Group.

Mr. Robinson and Matt Gendron (RI) developed a discussion draft dated Feb. 9, 2019, which was distributed to Working Group members, interested state insurance regulators and interested parties. The discussion draft was posted on the Working Group's web page.

2. Reviewed the Feb. 9, 2019, Discussion Draft of Revisions to Model #245

Mr. Robinson provided an overview of the Feb. 9, 2019, discussion draft of revisions to Model #245. The revisions are in Section 6F(9)(b) and Section 6G(4)(b)(i):

- Section 6F(9) (b) If any index utilized in determination of an account value has not been in existence for at least ~~ten~~twenty (~~10~~20) calendar years, indexed returns for that index shall not be illustrated unless all of all of the following criteria are met:
- (i) The index is a combination of indices, each of which has been in existence for at least twenty~~ten~~ (20) calendar years;
 - (ii) The method of combination is such that a unique twenty (20) calendar year history of the index can be constructed;
 - (iii) Any algorithm or other method of combining the indices shall be fixed from the creation of the index; ~~and~~
 - (iv) Any algorithm or other method that is supporting such an index and is included in the illustration shall be made available for inspection at the request of the commissioner or the consumer; and;
 - (v) If the fixed indexed annuity provides an option to allocate account value to more than one indexed or fixed declared rate account, and one or more of those indices has not been in existence for at least ~~ten~~twenty (~~10~~20) calendar years, the allocation to such indexed account(s) shall be assumed to be zero.;

* * * * *

- Section 6G(4)(b)
- (i) For fixed indexed annuities where the index is a combination of other indices and has not been in existence for twenty (20) calendar years, but the criteria in Section 6F(9)(b) have been met, the following additional statements apply:
 - (I) The index has not been in existence for twenty (20) calendar years, but it is a weighted average of indices that have been in existence for at least twenty (20) calendar years;
 - (II) Because the index has not been in existence for twenty (20) calendar years, some of the values of the index shown are hypothetical;
 - (III) Either the weights used in combining the indices are constant over time, or the weights are based on an algorithm that is consistently applied over time but may produce different weights in different years; and
 - (IV) The consumer may request further explanation of the algorithm used to determine the weights.;
 - (ii) For fixed indexed annuities where the index is a combination of other indices and has been in existence for twenty (20) calendar years, the following additional statements apply:
 - (I) Either the weights used in combining the indices are constant over time, or the weights are based on an algorithm that is consistently applied over time but may produce different weights in different years; and
 - (II) The consumer may request further explanation of the algorithm used to determine the weights.;~~and~~

Mr. Robinson said the primary change in Section 6F(9)(b) from previous revisions is moving the time frame for allowing the illustration of indices that have been in existence for at least 10 years to at least 20 years. He said in order to illustrate, the index itself does not have to have been in existence for 20 years, but the sub-indices do. He explained that one reason for the change is the need for sufficient time to have passed in order for the requirement to illustrate the best 10 years and the worst 10 years to be meaningful. He said this draft does not refer to “components” of an index like previous drafts, which was an undefined and confusing term. He said, instead, the draft refers to an index composed of indices that have been in existence for at least 20 years.

Mr. Robinson said the new language in Section 6G(4)(b) requires the inclusion of certain statements in the narrative summary that accompanies an illustration to help consumers understand the nature of the indices that are being illustrated.

Mike Brennan (RiverSource) asked what standards would apply to the algorithm information that the discussion draft makes available to the consumer upon request. He said it would be helpful for standards to be developed.

Mr. Yanacheak said the states would consider different things in assessing an algorithm. He said reviewing an algorithm would most likely involve verifying the deterministic nature of the algorithm; i.e., the unique history of the index that results can be verified with math by applying the algorithm.

Mr. Brennan asked whether there had been any consideration of applying the rules that apply to indexed universal life (IUL) regarding actuarial signoff to this situation. Mr. Yanacheak said he would like to see some convergence between the two different standards.

Brendan Sheehan (Allianz) said, according to research done by Allianz, 70% of these types of indices on the market today would not meet this 20-year standard. He agreed to provide the Working Group with a list of indices and their ages.

Birny Birnbaum (Center for Economic Justice—CEJ) said he is less opposed to these revisions than he had been. He said the 20-year requirement improves the existing model. He said, however, he would like to see a time frame longer than even the proposed 20 years to better address the issues of data-mining and backcasting to create a favorable illustration using these indices. He also said he remains concerned that consumers think illustrations are estimates and will not understand the implications of the disclosures being made about the indices.

Robbie Meyer (American Council of Life Insurers—ACLI) said the ACLI is still evaluating the revisions, which differ significantly from the existing model.

The Working Group agreed to expose the revised Model #245 for a public comment period ending April 26.

Having no further business, the Annuity Disclosure (A) Working Group adjourned.

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Attachment Two
Life Insurance and Annuities (A) Committee
4/7/19

Draft: 4/11/19

Life Insurance and Annuities (A) Committee and Annuity Suitability (A) Working Group
Orlando, Florida
April 6, 2019

The Life Insurance and Annuities (A) Committee and the Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee met in Orlando, FL, April 6, 2019. The following Committee members participated: Doug Ommen, Chair (IA); Stephen C. Taylor, Vice Chair (DC); Jim L. Ridling (AL); Trinidad Navarro represented by Fleur McKendell (DE); Dean L. Cameron represented by Elaine Mellon (ID); James J. Donelon represented by Frank Opelka (LA); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Ramge (NE); Barbara D. Richardson (NV); Linda A. Lacewell represented by Mark McLeod (NY); Jillian Froment (OH); Javier Rivera Rios (PR); Julie Mix McPeak represented by Michael Humphreys and Lorrie Brouse (TN); and Mark Afable (WI). The following Working Group members participated: Jillian Froment, Vice Chair, and Michelle Brugh Rafeld (OH); Doug Ommen, Vice Chair (IA); Jerry Workman (AL); Jodi Lerner and Perry Kupferman (CA); Fleur McKendell (DE); Elaine Mellon (ID); Nour Benchaaboun (MD); Renee Campbell (MI); Matt Holman (NE); Mark McLeod (NY); Cuc Nguyen (OK); Elizabeth Kelleher Dwyer, Matt Gendron and Sarah Neil (RI); Michael Humphreys and Lorrie Brouse (TN); and Richard Wicka (WI). Also participating were: Karl Knable (IN); Paul Hanson (MN); and Scott A. White (VT).

1. Adopted the Working Group's 2018 Fall National Meeting Minutes

Commissioner Taylor made a motion, seconded by Mr. Humphreys, to adopt the Working Group's Nov. 15, 2018 minutes (*see NAIC Proceedings – Fall 2018, Life Insurance and Annuities (A) Committee, Attachment Five*). The motion passed unanimously.

2. Heard a Presentation on the SEC's Proposed Regulation Best Interest Rule and the Proposed Revisions to Model #275

Commissioner Ommen thanked the Working Group for its work to date on revising the *Suitability in Annuity Transactions Model Regulation (#275)*. He noted, however, that issues remain. He said one remaining issue of consequence is whether there is a distinction between a U.S. Securities and Exchange Commission's (SEC) broker-dealer obligation, as proposed in the SEC's proposed Regulation Best Interest rule, and an insurance producer obligation, as proposed in the draft revisions to Model #275.

Commissioner Ommen explained that the Working Group members are familiar with provisions of the SEC's proposed Regulation Best Interest rule, but the Committee members may be less familiar with it. He said, to date, the SEC's proposed best interest rule does not define "best interest," which may work for the SEC, but as Iowa's insurance commissioner and chief securities regulator, he would like to know what "best interest" means. He said other NAIC members have expressed the same concern and noted that the current draft of revisions to Model #275 also reflect this concern. He also noted that the Working Group has discussed "best interest" and its possible meaning extensively, with a significant number of interested parties pressing the Working Group and the Committee to go further than the draft's current language on the issue.

Commissioner Ommen said, during this meeting, the Committee and Working Group would hear a presentation from Douglas Schmidt (Husch Blackwell), with whom the Iowa Insurance Division retained to provide advice on the SEC's proposed Regulation Best Interest rule and to explain how the proposed revisions to Model #275, which would apply to insurance producers, would compare with the broker-dealer distribution channel. He said he also would like to know the complications of agents selling across state lines and facing a "checkerboard" of differing state requirements and legal obligations. He said Husch Blackwell's legal memorandum analyzing the SEC's proposed Regulation Best Interest rule was included in the meeting materials.

Mr. Schmidt provided the Committee and Working Group with an overview of his legal analysis. He provided background history on the SEC's proposed Regulation Best Interest rule. He noted that the SEC has received more than 6,000 comments on its proposed rule. He explained that if the rule goes into effect without changes, in his opinion, the standard for broker-dealers and qualifying insurance producers will be unclear.

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Mr. Schmidt explained the licensing distinctions among investment advisers, broker-dealers and insurance producers. He discussed the current suitability standard as provided in the Financial Industry Regulatory Authority's (FINRA) Rule 2111. He also discussed the current text in the SEC's proposed Regulation Best Interest rule establishing the best interest standard and how a broker-dealer would comply with the standard by satisfying three types of obligations: 1) the disclosure obligation; 2) the care obligation; and 3) the conflict-of-interest obligation. He provided a comparison of the SEC's proposed Regulation Best Interest rule, the proposed revisions to Model #275 and FINRA Rule 2111 with respect to their conduct standards, disclosure requirements and conflict-of-interest requirements.

Mr. Schmidt then discussed a court's potential interpretation of the SEC's proposed Regulation Best Interest rule. He also discussed how the SEC's proposed Regulation Best Interest rule could interact with state standards. He noted that the SEC's proposed rule does not clearly specify whether the states are free to enact standards that are stricter than the proposed rule. As such, general preemption principles would likely apply. He explained that, historically, the federal Securities Exchange Act of 1934 did not preempt state common law that did not conflict with federal rules.

Lastly, Mr. Schmidt outlined the pros and cons of the SEC's proposed best interest standard, noting that it provides very clear disclosure requirements and clear requirements for conflict of interest policies and disclosures, but the proposed rule fails to define "best interest," creating confusion as to compliance, and fails to specify whether the industry practice of captive agents is permissible under the best interest standard.

Commissioner Ommen asked for clarification concerning the SEC's proposed Regulation Best Interest rule's general best interest obligation to the consumer and specific best interest obligation to the consumer and Mr. Schmidt provided an explanation.

Commissioner Ommen questioned how one would build a "greatest benefit" compliance system.

Ms. Brouse said she believes the current draft of proposed revisions to Model #275 has taken out some of the uncertainty regarding compliance with its standards because of the definition of "suitable."

Director Rame expressed concern with a court's interpretation of "greatest benefit" and the potential impact on consumers. He said such a requirement may cause broker-dealers to partially withdraw from serving low- and middle-income consumers, limiting their access to certain investment products.

3. Discussed the Working Group's Next Steps

Commissioner Ommen said he believes, procedurally, the Working Group is prepared to resume its work. He advised the Committee that a chair's list of the comments received on the current draft of proposed revisions to Model #275 received by the Feb. 15 public comment deadline also was included in the meeting materials.

Director Froment made a motion, seconded by Commissioner Taylor, to authorize the Working Group to continue its work and allow it to consider the presentation; the comments received by the Feb. 15 public comment deadline; and comments from Working Group members, interested state insurance regulators and interested parties received during its discussions. The Committee further directed the Working Group to complete its work as soon as possible, by holding an in-person interim meeting sometime in May or June and reporting on its progress to the Committee at the Summer National Meeting.

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

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Draft: 1/28/19

Life Insurance Illustration Issues (A) Working Group
Conference Call
December 18, 2018

The Life Insurance Illustration Issues (A) Working Group of the Life Insurance and Annuities (A) Committee met via conference call Dec. 18, 2018. The following Working Group members participated: Richard Wicka, Chair, and Jennifer Stegall (WI); Perry Kupferman (CA); Chris Struk and Vicki Twogood (FL); Teresa Winer (GA); Mary Mealer (MO); Robert E. Harkins (NE); Jana Jarrett and Tynesia Dorsey (OH). Also participating were: Tate Flott (KS); and Denise Lamy (NH).

1. Discussed Oct. 9, 2018, Draft of Model #580

Mr. Wicka explained that the Working Group agreed during its last conference call to expose the Oct. 9, 2018, draft revisions to the *Life Insurance Disclosure Model Regulation* (#580) for a public comment period ending Dec. 10, 2018 (Attachment Three-A). He explained that the Oct. 9, 2018, draft revisions incorporated the proposal forwarded by Birny Birnbaum (Center for Economic Justice—CEJ). He said the Oct. 9, 2018, draft takes a different approach than previous drafts in which a policy overview was a cover page to the policy summary in Model #580 and the narrative summary in the *Life Insurance Illustration Model Regulation* (#582). Instead, the Oct. 9, 2018, draft revises Model #580 to include a policy overview document that accompanies all life insurance policies, which is to be delivered at the same time as the *Life Insurance Buyer's Guide* (Buyer's Guide). Mr. Wicka said Model #582 would not be revised.

The Working Group reviewed comments submitted by Mr. Birnbaum on the Oct. 9, 2018, draft. Mr. Birnbaum suggested removing Section 2B: "This regulation does not prohibit the use of additional material that is not a violation of this regulation or any other [state] statute or regulation." He explained that the first reason for removing Section 2B is the circular nature of the language, which states that the regulation does not prohibit what is not prohibited. He said the second reason for deleting Section 2B is that there may be additional material that, while not prohibited, would nevertheless undermine the purpose of having defined disclosures. Ms. Winer suggested that the language should remain because statutory language is sometimes construed as excluding anything that is not specifically included. However, she would change the structure to remove the double negative. She suggested including language to the effect that additional information could be included if it does not undermine the purpose of the model. The Working Group agreed to include language to that effect in the next draft.

The Working Group discussed cross-referencing the definition of "illustration" from Model #582 in Model #580. Donna Megregian (American Academy of Actuaries—Academy) said the definition in Model #582 does not include illustrations of variable life insurance policies. Mr. Birnbaum said variable life insurance is specifically excluded from the scope of Model #580, so there should not be a problem. However, if the exemption were removed, which is another of his suggestions, then the term could be defined. Brian Lessing (AXA Equitable) said variable life products should not be subject to this model. Mr. Birnbaum said variable products should be included because the information would be helpful to someone who is trying to choose between different products. Michael Lovendusky (American Council of Life Insurers—ACLI) said variable products are subject to U.S. Securities and Exchange Commission (SEC) oversight and disclosure requirements, which is why they are exempt from these disclosure requirements. Ms. Winer said this model addresses guaranteed elements. Mr. Birnbaum said the SEC is trying to develop more consumer-oriented disclosures and that a short comparison tool would be just as helpful for consumers of variable life products. He said any issue with guaranteed elements could be addressed with product specific requirements in the model. Mr. Wicka said he was hesitant to remove an existing exemption without a better understanding of the issues and potential consequences.

Mr. Birnbaum suggested the following definition of "policy overview" instead of the revisions in the Oct. 9, 2018, draft:

"Policy overview" means a document describing the basic features of the policy presented in a manner to facilitate the purposes of this model, containing the elements required in Section 5.A. and substantially similar to the model forms in Appendix X.

Mr. Birnbaum said the Oct. 9, 2018, draft uses the subjective descriptor "consumer-oriented," which does not provide useful guidance. He said using the phrase "basic features of the policy" parallels "to improve the buyer's understanding of the basic features of the policy," the language used in the Purpose section of the model. He also said "written statement" is too limiting; using the term "document" allows for either a paper or electronic communication. He explained that his revised definition requires the policy overview to be substantially similar to the template that is going to be developed. He said one of the reasons

for the charge to revise the models was to address the wide disparities in format currently being used in policy summaries and narrative summaries. He said the use of a policy overview substantially similar to the template could solve this issue.

Mr. Wicka said he liked Mr. Birnbaum's suggested language, with the exception of requiring the use of the template, which was an issue that had been discussed and decided by the Working Group previously. Mr. Lovendusky said the ACLI opposes Mr. Birnbaum's proposed changes, especially the substantially similar requirement. He also said Mr. Birnbaum expands the definition to reference Section 5A, when the Oct. 9, 2018, draft references 5A(2). Ms. Winer suggested keeping the Oct. 9, 2018, draft language without the "consumer-oriented" modifier. Mr. Lovendusky suggested using broader language, such as a "document reasonably designed to inform consumers of the basic features of the policy." Mr. Wicka said he would draft something for inclusion in the next draft.

Mr. Birnbaum also suggested revisions to the term and definition of "Premium and Benefit Patterns Summary" in the Oct. 9, 2018, draft. He suggested using the term "Guaranteed Premium Payments and Benefits" because the document is showing only guaranteed elements. He also suggested that the definition refer to "a separate document that accompanies the Policy Overview only for those policies which are not marketed or sold with an illustration," rather than the language in the Oct. 9, 2018, draft which says "a separate document that accompanies the Policy Overview where the insurer has identified the policy as one that will not be marketed with an illustration." He said that how the insurer designates the policy is irrelevant. Mr. Wicka said he would draft language for the Working Group's consideration in the next draft.

Mr. Birnbaum suggested the following revisions to Section 5A(1):

The insurer shall ~~provide~~ deliver a Buyer's Guide to all prospective purchasers, prior to accepting the applicant's initial premium or premium deposit. ~~However, if the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Buyer's Guide may be delivered with the policy or prior to delivery of the policy. If agreed to in writing or by electronic means, the insurer may deliver the Buyer's Guide to a prospective purchaser in electronic or digital format.~~

Mr. Birnbaum explained that he deleted the language, allowing for the delivery of the Buyer's Guide with the delivery of the policy if there is a free look period because there is no reason in the modern age to allow for the delivery of the Buyer's Guide after the policy has been purchased. He said it encourages buying and cancelling a policy as a way to learn about the policy. Ms. Winer asked whether this change would be hard on agents. Mr. Wicka said he liked the language allowing for electronic or digital delivery, but he was concerned about changing the way things are done without assessing whether it would create a hardship. He said that changing the current Buyer's Guide delivery requirements is beyond the scope of the Working Group's charge. Mr. Lovendusky said the Buyer's Guide and policy overview serve different purposes—the Buyer's Guide is a general education piece and the policy overview is narrowly focused on a particular policy. Mr. Wicka said it makes sense to deliver the policy overview at the same time as the Buyer's Guide in order to minimize an administrative burden. Mr. Birnbaum said that just because companies deliver the Buyer's Guide after purchase does not make it right for consumers. He said there is no reason to delay delivery in light of modern technology. Mr. Wicka said the Life Insurance and Annuities (A) Committee would have to be consulted before changes could be made to the Buyer's Guide delivery requirements. He said that if the Committee agreed to change the Buyer's Guide delivery requirements, then the policy overview requirements would follow suit.

Mr. Birnbaum also suggested changes to the Oct. 9, 2018 revisions to Section 5(A)(2). His revised language requires delivery of the policy overview to all prospective purchasers prior to accepting an initial premium or deposit in a format substantially similar to the template in the Appendix. He explained that use of the template eliminates the need to reference a page limit or font size. He also said that in order for the policy overview to promote consumers' ability to comparison shop and understand the basic features of a product, the model revisions must provide more of a guideline for insurers rather than a list of items to include and a required page length. He said that this type of guidance was provided previously in the model for the policy summary, and it produced wide disparities in the presentation of information about the same product types.

Mr. Birnbaum pointed out that Model #580 includes the defined term "generic name" that is not used in the model. Mr. Wicka agreed to remove the term in the next draft. Mr. Wicka said he would revise the Oct. 9, 2018, draft based on the discussions during the conference call. He said the Working Group would begin working on a sample policy summary next. He said he would forward a chair draft for the Working Group and interested parties to consider early in the new year.

Having no further business, the Life Insurance Illustration Issues (A) Working Group adjourned.

DRAFT 10/9/18
Revision marks show changes to existing model
Comments should be submitted to jcook@naic.org by Dec. 10, 2018

LIFE INSURANCE DISCLOSURE MODEL REGULATION

Table of Contents

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Section 1. Authority

This rule is adopted and promulgated by the commissioner of insurance pursuant to [insert state equivalent to Section 4A(1) of the Unfair Trade Practices Act] of the Insurance Code.

Drafting Note: Insert title of chief insurance regulatory official wherever the term “commissioner” appears.

Section 2. Purpose

- A. The purpose of this regulation is to require insurers to deliver to purchasers of life insurance information that will improve the buyer’s ability to select the most appropriate plan of life insurance for the buyer’s needs and improve the buyer’s understanding of the basic features of the policy that has been purchased or is under consideration.
- B. This regulation does not prohibit the use of additional material that is not a violation of this regulation or any other [state] statute or regulation.

Section 3. Scope

- A. Except for the exemptions specified in Section 3B, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. Section 5B shall apply only to an existing nonexempt policy held by a policyowner residing in this state. This regulation shall apply to any issuer of life insurance contracts including fraternal benefit societies.
- B. This regulation shall not apply to:
 - (1) Individual and group annuity contracts;
 - (2) Credit life insurance;
 - (3) Group life insurance (except for disclosures relating to preneed funeral contracts or prearrangements; these disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy);
 - (4) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. Section 1001 *et seq.* as amended; or

- (5) Variable life insurance under which the amount or duration of the life insurance varies according to the investment experience of a separate account.

Section 4. Definitions

For the purposes of this regulation, the following definitions shall apply:

- A. “Buyer’s Guide” means the current Life Insurance Buyer’s Guide adopted by the National Association of Insurance Commissioners (NAIC) or language approved by the commissioner.
- B. “Current scale of nonguaranteed elements” means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.
- C. “Generic name” means a short title that is descriptive of the premium and benefit patterns of a policy or a rider.
- D. “Nonguaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.
- E. “Policy data” means a display or schedule of numerical values, both guaranteed and nonguaranteed for each policy year or a series of designated policy years of the following information: illustrated annual, other periodic, and terminal dividends; premiums; death benefits; cash surrender values and endowment benefits.
- F. “Policy ~~summary~~Overview” means ~~a written statement describing the elements of the policy, including, but not limited to~~ brief, consumer-oriented overview of the policy which contains all relevant elements required by Section 5A(2).
- G. “Premium and Benefit Patterns Summary” is a separate document that accompanies the Policy Overview where the insurer has identified the policy as one that will not be marketed with an illustration.
- ~~G.H.~~ “Preneed funeral contract or prearrangement” means an agreement by or for an individual before that individual’s death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

Section 5. Duties of Insurers

- A. Requirements Applicable Generally
- (1) The insurer shall provide a Buyer’s Guide to all prospective purchasers, prior to accepting the applicant’s initial premium or premium deposit. However, if the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Buyer’s Guide may be delivered with the policy or prior to delivery of the policy.
- (2) The insurer shall provide a policy overview to prospective purchasers. Delivery of the policy overview shall be consistent with the time for delivery of the Buyer’s Guide as specified in Paragraph (1). Insurers should endeavor to limit the length of the Policy Overview to the minimum length necessary to reasonably inform consumers of the information required to be included in the policy overview. The policy overview is not required to be in a specific format beyond the requirements of the Section. The Policy Overview must be prepared in at least – font. A sample overview that meets the requirements of this Section is provided in Appendix X. Policy overviews shall include the following sections labeled with the following headings:
- (a) An introductory section containing the following language: “This document lists this product’s key features, benefits and costs. You can get a similar summary of key product features from other insurance companies to help you compare similar products. If you have

questions about this particular life insurance product, ask the agent, broker, advisor, or a company representative offering this product for clarification. If you have questions about life insurance products generally or about company or agent licensing, contact [insert reference to state department of insurance].”

- (b) The name and address of the insurance agent or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Overview. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written;
- (c) “Information about the Insured” which shall include the following information, as applicable:
- (i) Name of insured or insureds;
 - (ii) Gender of insured or insureds;
 - (iii) Date of birth of insured or insureds;
 - (iv) Issue age of insured or insureds;
 - (v) Risk class with a a statement as to where the insured can find additional information regarding risk classes;
 - (vi) The following statement: “In the course of considering an Insured’s application, an insurer may request or collect health information about the Insured in variety of way. A physical examination or questionnaire [will/willnot/may in some circumstances]be required.”;
- (d) “Cost Information” which shall include the following information, as applicable:
- (i) Initial premium and premium mode;
 - (ii) A short statement describing if the premium varies after the first year, and, if so, a statement as to where the insured can find information as to how the premium will be determined after the first year;
 - (iii) Available options for premium funding such as policy payment periods, any dividend options or lump sum payments options;
 - (iv) A yes or no indication whether a waiver of premium or deductions option is available;
 - (v) A description of surrender charges and the period of time that surrender charges apply.
 - (vi) A narrative description of the cost of insurance and other fees needed to keep the policy in force and how those fees may change over time;
- (e) “Policy Information” which shall include the following information, as applicable:
- (i) Product type (Including single or joint policy);
 - (ii) Product name and form number;

- (iii) Coverage period description;
 - (iv) Initial death benefit and a yes or no indication as to whether the death benefit can change;
 - (v) Death benefit option;
 - (vi) Policy effective date;
 - (vii) State of issue; and
 - (viii) Policy loan option and applicable charges; and
- (f) “Additional Policy Benefits” which shall include the following information, as applicable:
- (i) Eligibility for a dividend;
 - (ii) Conversion options that may be exercised;
 - (iii) Options to extend the term of the coverage;
 - (iv) Any available optional riders as requested by the insured, and an indication if there is an additional cost;
 - (v) Living benefit option(s);
 - (vi) Option to lower benefits to reduce premium;
 - (vii) A yes or no indication as to whether the policy can accumulate cash value; and
 - (viii) Guaranteed interest rates on fixed accounts and any indexed account options as requested by the insured.
- (3) The insurer shall provide a premium and benefits pattern summary to prospective purchasers where the insurer identified the policy form as one that will not be marketed with an illustration. Delivery of the premium and benefits pattern summary shall be consistent with the time for delivery of the Buyer’s Guide as specified in Paragraph (1). The premium and benefit patterns summary shall show guarantees only and include all required information set out in a manner that does not minimize or render any portion of the description obscure. Any amounts that remain level for two (2) or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts shall be listed in total, not on a per thousand or per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as a blank space. The following amounts, where applicable, for the first five (5) policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns; including at least one age from sixty (60) through sixty-five (65) and policy maturity:
- (a) The annual premium for the basic policy;
 - (b) The annual premium for each optional rider;

- (c) The amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, that is provided by the basic policy and each optional rider; with benefits provided under the basic policy and each rider shown separately;
- (d) The total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;
- (e) Any endowment amounts payable under the policy that are not included under cash surrender values above; and
- (f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the policy summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

B. Requirements Applicable to Existing Policies.

- (1) Upon request by the policyowner, the insurer shall furnish either policy data or an in force illustration as follows:
 - (a) For policies issued prior to the effective date of [insert state equivalent to Life Insurance Illustrations Model Regulation], the insurer shall furnish policy data, or, at its option, an in force illustration meeting the requirements of [insert state equivalent to Life Insurance Illustrations Model Regulation].
 - (b) For policies issued after the effective date of the illustration regulation that were declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting the requirements of the regulation.
 - (c) If the policy was issued after the effective date of the illustration regulation and declared to be used with an illustration, an in force illustration shall be provided.
 - (d) Unless otherwise requested, the policy data shall be provided for twenty (20) consecutive years beginning with the previous policy anniversary. The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer may charge a reasonable fee, not to exceed \$[insert amount], for the preparation of the statement.
- (2) If a life insurance company changes its method of determining scales of nonguaranteed elements on existing policies; it shall, no later than when the first payment is made on the new basis, advise each affected policy owner residing in this state of this change and of its implication on affected policies. This requirement shall not apply to policies for which the amount payable upon death under the basic policy as of the date when advice would otherwise be required does not exceed \$5,000.
- (3) If the insurer makes a material revision in the terms and conditions under which it will limit its right to change any nonguaranteed factor; it shall, no later than the first policy anniversary following the revision, advise each affected policy owner residing in this state.

Section 6. Preneed Funeral Contracts or Prearrangements

The following information shall be adequately disclosed at the time an application is made, prior to accepting the applicant's initial premium or deposit; for a preneed funeral contract or prearrangement that is funded or to be funded by a life insurance policy:

- A. The fact that a life insurance policy is involved or being used to fund a prearrangement;
- B. The nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator and any other person;
- C. The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;
- D. The impact on the prearrangement:
 - (1) Of any changes in the life insurance policy including but not limited to, changes in the assignment, beneficiary designation or use of the proceeds;
 - (2) Of any penalties to be incurred by the policyholder as a result of failure to make premium payments;
 - (3) Of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;
- E. A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;
- F. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;
- G. Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or the prearrangement guarantee; and

Drafting Note: States should consider whether the insurance regulator has the authority to enforce the provisions of Subsections E, F and G.

- H. If so, the fact that a sales commission or other form of compensation is being paid and the identity of the individuals or entities to whom it is paid.

Section 7. General Rules

- A. Each insurer shall maintain, at its home office or principal office, a complete file containing one copy of each document authorized and used by the insurer pursuant to this regulation. The file shall contain one copy of each authorized form for a period of three (3) years following the date of its last authorized use unless otherwise provided by this regulation.
- B. An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.
- C. An insurance producer shall not use terms such as "financial planner," "investment advisor," "financial consultant," or "financial counseling" in such a way as to imply that he or she is primarily engaged in an advisory business in which compensation is unrelated to sales unless that is actually the case. This provision

is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

- D. Any reference to nonguaranteed elements shall include a statement that the item is not guaranteed and is based on the company's current scale of nonguaranteed elements (use appropriate special term such as "current dividend" or "current rate" scale.) If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to nonguaranteed elements. A presentation or depiction of a policy issued after the effective date of the [insert citation to state equivalent to Life Insurance Illustrations Model Regulation] that includes nonguaranteed elements over a period of years shall be governed by that regulation.

Section 8. Failure to Comply

Failure of an insurer to provide or deliver a Buyer's Guide, an in force illustration, a policy summary or policy data as provided in Section 5 shall constitute an omission that misrepresents the benefits, advantages, conditions or terms of an insurance policy.

Section 9. Separability

If any provisions of this rule be held invalid, the remainder shall not be affected.

Section 10. Effective Date

This rule shall become effective [insert a date at least 6 months following adoption by the regulatory authority].

Draft: 4/3/19

Life Insurance Online Guide (A) Working Group
Conference Call
March 18, 2019

The Life Insurance Online Guide (A) Working Group of the Life Insurance and Annuities (A) Committee met via conference call March 18, 2019. The following Working Group members participated: Mary Mealer, Chair (MO); Teresa Winer (GA); Robert Harkins (NE); Jana Jarrett (OH); and Sarah Neil (RI). Also participating were: Perry Kupferman (CA); Michael Chrysler (IL); and Susan Ezalarab (WI).

1. Discussed Work Plan for Online Guide

Ms. Mealer explained that the Working Group has 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.” She said the Working Group should plan to finish the online guide by November.

Ms. Mealer reminded the Working Group that a draft outline (Attachment Four-A) submitted by Birny Birnbaum (Center for Economic Justice—CEJ) serves as a starting point for a list of topics that the online guide should address. She said an additional outline of topics (Attachment Four-B) submitted by Brenda Cude (University of Georgia) had been posted on the Working Group’s web page.

Ms. Mealer said also posted on the Working Group’s web page is a draft grid submitted by the American Academy of Actuaries (Academy) developed after the Working Group’s last conference call to illustrate possible alternative ways the information could be displayed. The Working Group agreed that the Academy grid provides a good starting point, and additional information could be filled in.

Ms. Mealer suggested that the Working Group focus its immediate attention on the content to include in the online guide. She suggested that getting words on paper is a way to start making progress, and then the NAIC has in-house talent that can be recruited to assist the Working Group with putting the material in an online format.

Mr. Birnbaum said it does not make sense to divorce the content from the way it is to be distributed. Ms. Mealer agreed, and she said her intent is not to ignore the fact that the Working Group is creating an online resource. She would like to focus first on solidifying the topics to include and get wording together. Then, she suggested that attention can be focused on the best way to organize and present the information in an online format.

Ms. Mealer said she would like to make sure the Working Group has a comprehensive list of topics to include in the online guide. She said, in addition to Mr. Birnbaum’s outline and Ms. Cude’s outline, she had received a few additional topic suggestions from the Academy. The Working Group agreed that an online format lends itself to being as comprehensive as possible.

Ms. Mealer asked for volunteers to work on additional topics. She volunteered to draft descriptions of the 10 most common additional benefit riders. Susanne Bassmann (Prudential) volunteered to work on language describing death benefit options and no lapse guarantees. Ms. Neil said she would draft descriptions of dividends and dividend options, as well as term conversion options. Mr. Chrysler said he would draft a description of endowment (full or partial), and Ms. Winer said she would draft a description of cash value withdrawals. Mr. Birnbaum agreed to review the list submitted by Ms. Cude to make sure all the topics from her list are included in the CEJ outline. Ms. Mealer expressed gratitude for those volunteering to draft sections.

Ms. Mealer asked for draft language by April 4, and she said the Working Group would hold another call following the Spring National Meeting to work through the draft language and discuss where the information fits into the broader CEJ outline.

Having no further business, the Life Insurance Online Guide (A) Working Group adjourned.

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Life Buyer's Guide Outline: CEJ Outline for 3-18-19 conference call

Front Page:

1. I'm interested in buying life insurance – link to A

2. I have a life insurance policy and have questions – Link to B

A I'm interested in buying life insurance and want to learn more

A01. I know what life insurance product I want and want to learn more about it – Link to

1. Term Life -- Link to A01-01

Term life insurance is life insurance that pays if death occurs during the policy's term. Term life insurance has no investment component or cash value. You can't borrow money from a term life contract. While the policy only insures you for a specific time period or term, you can usually renew your term policy for another term period. The premium for term policies increases as you age.

Term life is often used as financial protection during the years the family needs the most financial support : paying off a mortgage, or paying for college.

Different Types of Term Life:

- a. Level-premium term life: you pay the same premium and your beneficiary receives the death benefit if you die during the policy term.
- b. Annual renewal term life: you can choose to renew every year but your premium could increase.
- c. Decreasing term life: you pay a level or the same premium for the term, but the death benefit decreases over time. Typically used to cover a mortgage.
- d. Return of Premium term life: you receive a return of premium if you do not die during the term. Because of the return of premium, you do pay more in premiums than standard term life insurance.

Types of 2. Permanent Life insurance plans:

a. Whole (Permanent) Life -- Link to A01-03

Whole life insurance is coverage for your entire life. It is also called "permanent" life insurance. Whole life policies build cash value. You can borrow from the cash value by taking out a loan. With a whole life policy, you pay a level premium and your death benefits are fixed—they won't go up or down. Whole life policies also have a guaranteed rate of return.

Whole life usually costs more than term life for the same death benefit. Whole life allows you to cover your burial costs, cover estate taxes or supplement retirement plans. It also allows you to take loans to cover other essential life expenses.

b. 3. Universal Life -- Link to A01-03

Universal Life: Allows you to raise or lower your premium payments within limits and allows flexibility with the death benefit. Universal Life policies have a cash value. You may skip a monthly payment and make it up another month. You can vary your premium payments as long you pay a minimum level of premiums over the year.

- c. Indexed Universal Life -- Link to A01-04** IUL policies are complex and offer tax deferred cash accumulation for retirement. IULs may be used as key person insurance for businesses, premium financing plans or estate planning vehicles. The insured is allowed to select multiple indexes, such as the Standards and Poor. If you are interested in more information on this product, please consult your financial advisor.

- d. Variable Life -- Link to A01-05** Variable Life: allows you to invest some of the cash value in a mutual fund or bonds. The policy's cash value depends on the performance of the investments. If investments fair well, you can use the gains to pay additional premiums or increase the death benefit. If the investments do poorly, you may have to reduce your death benefit.

- e. Variable Universal Life -- Link to A01-06** Like universal life insurance, this policy has both a saving part and a separate death benefit. With Variable Universal Life the savings part of the policy is invested in separately managed accounts or "sub-accounts". Because of the investments in sub-accounts, the policy can grow faster than a whole life policy but this policy is also exposed to losses. If you are interested in more information on this product, please consult your financial advisor.

- f. **Joint and survivor:** a type of life insurance coverage for more than one person, usually a couple. You can purchase “first to die” or “second to die” policy. With “first to die”, the policy death benefits are paid when one of the two die. With “second to die”, the policy death benefits are paid with both die. Benefits of this policy include lower premiums than traditional whole life.

[For each product type/page, highlight key features and cautions – section B for types of questions]]

A02 – I want to learn about different products and how much life insurance I need

1. *What can life insurance do? What shouldn't I buy life insurance for?*
Purposes/Types of Life Insurance—some products serve two or more purposes!
- *Protection for family and loved ones if I die*
 - *“A tax-advantaged investment”*
 - *Long-term care or other future health-related catastrophic events*
 - *Estate planning*

Life insurance is to protect your dependents from financial difficulties upon your death. When you die your life insurance can be used to pay off a mortgage, or college loans. While you live, your life insurance can be used a tax deferred vehicle or “tax advantaged investment”; can be used in your estate planning; and, can fund your long term care needs.

Life insurance should not be bought to cover your monthly or day-to-day expenses or your retirement plan. You should understand the premium cost and ensure you are able to afford the premiums. If you can't afford the premiums, do not buy it. You should consider if life insurance is a good investment if you do not have debt or have a lot of assets.

(Narrative, Link to Decision Tree (#2))

2. I need help deciding what type of life insurance to buy (Decision Tree – links to product categories)

Why do I need life insurance? (Answers: pay off mortgage and college loans; estate planning, burial; tax deferred vehicle; pay for long term care;)

How long do I need life insurance protection? (Answer: Short Term / Long Term)

If answers are estate planning/tax deferred vehicle/ long term care: look at whole life policies, IUL and VUL
If answers are mortgage, college debt, burial expenses and short term: look at term life policies.

3. I need help figuring out how much life insurance to buy (Worksheet)
4. What should I know about different life insurance companies? How do I learn about life insurance companies?
5. Are the benefits in my life insurance policy guaranteed or backed by the government? What is a guaranty fund?
6. What is a life settlement and what should I know it?
7. What is a replacement and what should I know about it?
8. What types of professionals sell life insurance (list and describe the types). What are the differences?
9. Are people who sell life insurance required to put my interest first? Why is it important to ask to how the professional is paid to assist me? What questions should I ask the professional to determine if he or she is right for me?
10. Where else can I get help besides the insurance company, insurance agent or broker?
11. If I buy a policy and then decide I don't want it, what options do I have?

B. I have a life insurance policy and have questions

B01: What type of life insurance policy do you have?

1. Term Life -- Link to B01-01
2. Whole (Permanent) Life -- Link to B01-02
3. Universal Life -- Link to B01-03
4. Indexed Universal Life -- Link to B01-04
5. Variable Life -- Link to B01-05
6. Variable Universal Life -- Link to B01-06
7. I'm Not Sure – Link to B01-07

Possible Q & A for each product category (Note – the topic headings are intended for the working group, not consumers)

• Questions about filing a claim

How do I file a claim?

What documentation do I need to file a claim?

• Questions about claim disputes

• Questions about finding lost policies

(Some insurance departments have a policy locator service (such as MO and KS))

• Questions about claim benefits, including retained asset accounts

• Questions about premium increases:

I have a term life policy, can my premiums go up?

I have a whole life policy, can my premiums go up?

I have a (type of policy), can my premiums go up?

• Questions about riders

What are “riders” and what do they do?

What types of riders are common with life insurance products?

• Questions about replacements

I own a life insurance policy and I don't like it, but don't want to lose everything I've paid to date

I own a life insurance policy and I don't like it – what are my options for getting out of it or switching to something else?

• Questions about life settlements

• Questions about filing a complaint

• Questions about account values

• Questions about policy loans

• Questions about policyholder protection and guaranty funds

• Questions about where to go for help and role of the insurance department and other regulatory agencies

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Outline for Life Insurance Buyers' Guide

2/15/2017 Draft

Why are you shopping for life insurance?

- **To replace income in the event of my death**

Where can I buy life insurance? (can we include thru employer?)
What types of policies? (Just term vs. whole life here)
What happens when a term policy ends?
How do I know how much life insurance to buy?
How much does life insurance cost?
What would I have to do to apply for life insurance?
What is a beneficiary?
How do I choose a life insurance company?
How do I choose a life insurance agent?
What happens if I miss a payment?
What is a rider? What riders are offered for term life insurance?
What should I know if I already have a policy and I'm thinking of buying another one?
What will my beneficiaries have to do to claim the benefit after my death?
I think I (or a relative) had a life insurance policy but I can't find it. What do I do?

- **As a way to save or invest for the future**

Where can I buy life insurance? (can we include thru employer?)
What types of policies? (whole life, variable life, universal life)
What is cash value in a life insurance policy?
What is a life insurance illustration?
How do I know how much life insurance to buy?
How much does life insurance cost?
What would I have to do to apply for life insurance?
What is a beneficiary?
How do I choose a life insurance company?
How do I choose a life insurance agent?
What happens if I miss a payment?
What is a rider? What riders are offered for life insurance?
What should I know if I already have a policy and I'm thinking of buying another one?
What will my beneficiaries have to do to claim the benefit after my death?
I think I (or a relative) had a life insurance policy but I can't find it. What do I do?

- **As a way to pay for long-term care**

How could I use a life insurance policy to pay for long-term care (cash value, accelerated death benefits, combination policy, life/viatical settlement)
What types of policies? (term, whole life, variable life, universal life)
Using a policy you already own?
What is an Accelerated Death Benefit?
What is cash value in life insurance?
What is a life settlement? What's a viatical settlement?
What if I don't use the policy for long-term care?
What is a rider? What riders are offered for to help pay for long-term care?

- **Buying a policy for future long-term care expenses: Accelerated Death Benefits**

How do I know how much insurance to buy?
How much does the insurance cost?
What is a rider? What riders are offered for to help pay for long-term care?
What would I have to do to apply for a policy?
What if I don't use the policy for long-term care?
How do I choose a life insurance company?
How do I choose a life insurance agent?
What happens if I miss a payment?
What would I have to do to claim the long-term care benefit?

- **Buying/have a policy for future long-term care expenses: Combination Policies**

How do I know how much insurance to buy?
What is a rider? What riders are offered for to help pay for long-term care?
How much does the insurance cost?
What would I have to do to apply for a policy?
How will I know how much my long-term care benefit will be?
How will I know what types of long-term care my policy would cover?
Will the long-term care benefit stay the same or increase over time after I buy the policy?
What if I don't use the policy for long-term care?
How do I choose a life insurance company?
How do I choose a life insurance agent?
What happens if I miss a payment?
What should I know if I already have a policy and I'm thinking of buying another one?
What would I have to do to claim the long-term care benefit?
I think I (or a relative) had a life insurance policy but I can't find it. What do I do?

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