

**Summary of Proposed Revisions to the
NAIC Suitability in Annuity Transactions Model Regulation**

The proposed revised NAIC Suitability in Annuity Transactions Model Regulation (“Model”) includes the following provisions:

1. Phased in effective dates.

Implementation of the Model will require the NAIC to develop certain programs and guidance. In addition, insurers in particular, and to some degree insurance agencies, will need time to develop appropriate systems. Accordingly the Model generally has a delayed effective date of June 30, 2010, and, with respect to certain provisions, particularly training requirements, includes a further delayed effective date of January 1, 2011.

2. Organizational focus on delivery of quality suitability recommendations.

The Model encourages insurers to focus on providing an informed and professional customer service of recommending suitable annuity products by requiring the insurer to:

- a. Establish a supervision organizational unit that is independent from marketing functions and that reports to a senior executive.
- b. Maintain supervision oversight measures that are based on systematic collection, analysis, and reporting of data.
- c. Establish suitability review standards that may be applied on an automated basis to select proposed transactions for review by qualified supervision staff. This is similar to FINRA provisions that allow use of automated screening for principal review.
- d. Take steps to evaluate the quality of suitability recommendations by seeking confirmation of application suitability information from their customers, by mailing a statement to the customer with a request to respond identifying any errors, conducting interviews of certain types of customers on critical topics (for example age 70 or older as to liquidity issues) and selected other customers on selected topics based on sampling techniques.
- e. Accept an annuity application only if all suitability information is submitted with the application.
- f. Engage in systematic monitoring of their insurance agencies and insurance producers, to take affirmative steps to investigate on a risk assessment basis, and to take action where appropriate.

- g. Establish supervision officers at insurer-owned insurance agencies.
- h. Ensure their Insurance Producers receive adequate product training.
- i. Verify that their Insurance Producers received initial and ongoing suitability training.
- j. Verify that their Insurance Producers are certified by a NAIC designed fixed and indexed annuity competency test.
- k. Obtain a supervision organization unit annual report for the insurer's audit committee.
- l. Obtain every 5 years a report of a review of its oversight function by an independent firm for the insurer's audit committee.

3. Insurer Oversight function flexibility.

The Model requires insurers to engage in a thoughtful and systematic effort to supervise for delivery of quality suitability recommendations. It retains insurer flexibility to develop reasonable measures to meet the Model standards.

4. NAIC Guidance and Safe harbor.

The Model retains insurer flexibility to design most supervision functions, but also gives insurers and insurance agencies a safe harbor for reasonable reliance on published NAIC Life Insurance Committee guidance. The Model anticipates that the NAIC will provide guidance on most Model standards, including:

- a. NAIC established insurance producer suitability initial and ongoing training standards and fixed and indexed annuity competency certification.
- b. NAIC guidance on suitability review standards.
- c. NAIC guidance on circumstances that warrant enhanced oversight measures, including product features, marketing practices and sales patterns ("high risk factors").
- d. NAIC approval of an accreditation organization for independent firms who perform supervision audits or inspection.
- e. NAIC guidance on audit guides.

- f. NAIC guidance on customer interview sampling.
- g. NAIC guidance on certification forms.
- h. NAIC guidance on forms and format for required disclosures and information collection, including for suitability information and the product comparison disclosure.

5. FINRA licensed security broker-dealers exempt.

The Model avoids imposing overlapping oversight requirements on FINRA licensed security broker-dealers by:

- a. Exempting security broker-dealers from applying the insurer's oversight of Insurance Producer training to its security representatives and from inspection requirements.
- b. Allowing a security broker-dealer to apply the FINRA supervision requirements to its registered security representatives/Insurance Producer sales of fixed and indexed annuity products.

6. Field marketing organizations.

The Model requires field marketing organizations (other than FINRA security broker-dealers or insurance agencies in joint marketing arrangements with a broker-dealer) to:

- a. Be licensed.
- b. Have the capacity to and maintain effective oversight systems for their sub-agents/Insurance Producers in accordance with the insurer's oversight program.
- c. Annually file a senior officer certification regarding performance of oversight functions.
- d. Every 3 years obtain and file with each insurer a certified report from an independent qualified firm evaluating the field manager's suitability oversight effectiveness.

FINRA licensed broker-dealers/insurance agencies are required to annually file a senior officer certificate and to apply the FINRA rule supervision system to security representative/insurance producer sales of non-security annuities.

7. Insurance agencies and insurance producer.

The Model requires insurance agencies and insurance producers to:

- a. Perform in accordance with the insurer's oversight standards.
- b. Sell an insurer's annuity products only under the oversight of a marketing organization subject to the requirements outlined above.

8. Selected specific standards.

The Model includes provisions that address specific areas of concern:

- a. Reverse mortgage funded annuity sales are prohibited.
- b. Insurers are required to develop and provide a consumer disclosure comparing the product features of a sold annuity and with the features of any financial product (other than a security) that is the annuity funding source.
- c. Insurer oversight staff is required to review regulator disciplinary actions against their insurance producers and, when warranted, investigate further to identify patterns of misconduct and additional consumers harmed and take corrective action.
- d. Insurer oversight staff is required, where appropriate, to interview consumers to address complaints.
- e. Clarification that a recommendation must be based on an objective reasonable basis for the determination the annuity is suitable, not a subjective belief of the Insurance Producer.