



15 School Street, Suite 200  
Annapolis, Maryland 21401  
410-269-1554

For information, contact:  
Matthew Celentano, Executive Director

February 24, 2022

Lisa Larson  
Regulations Manager  
Maryland Insurance Administration  
200 St. Paul Place, Suite 2700  
Baltimore, Maryland 21202

Re: Draft Regulation 31.09.12

Dear Ms. Larson:

On behalf of the League of Life and Health Insurers of Maryland, Inc. (League), thank you for the opportunity to provide comments regarding the Administration's most recent draft of amendments to its Suitability in Annuity Transactions Regulation ("Draft Regulation").

The League is the state trade association representing life and health insurance companies in Maryland and strongly supports the changes that will provide strong new protections for Marylanders contemplating the purchase of an annuity. The League also supports and appreciates that the Draft Regulation very closely tracks the recent best interest amendments to the NAIC Suitability in Annuity Transactions Model Regulation ("NAIC Model"). Our comments support such conformity of the Draft Regulation with the NAIC Model, as well as the comments of the American Council of Life Insurers (ACLI).

ACLI is the leading national trade association driving public policy and advocacy on behalf of the life insurance industry as well as an associate member of the League here in Maryland. More than 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI and the League member companies (including Baltimore Life, Legal & General America, MetLife, and New York Life) are dedicated to protecting consumers' financial well-being through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision, and other supplemental benefits.

We remain committed to achieving a harmonized national best interest standard of care for annuities across all regulatory platforms. Consumers must be confident that insurance companies and insurance professionals with whom they are entrusting their retirement savings are acting in their best interest and not putting their own financial interests ahead of consumers' interests.

**The League of Life and Health Insurers of Maryland, Inc.**

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[www.leaguemaryland.com](http://www.leaguemaryland.com)

We echo ACLI's suggested substantive additions to the Draft Regulation in the below comments:

### Section .02 Purpose

The Administration has kept its existing regulatory language in Section .02 Scope: A which reads: "*This chapter applies to each recommendation to purchase, exchange, or replace an annuity made to a consumer by a producer, or an insurer if no producer is involved, that results in the purchase, exchange, or replacement recommended.*" The updated NAIC Model has rephrased the Purpose language to state: "*This regulation shall apply to any sale or recommendation of an annuity*".

It appears that the Administration interprets the language in the updated Purpose section of the NAIC Model to only apply to recommendations or sales, not replacement and/or exchanges, of annuities. This ignores the broad language throughout the Draft Regulation which bring in replacement and exchanges:

- The definition of "Recommendation" in .03 (16) states: (a) "Recommendation" means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, an exchange, or a replacement of an annuity in accordance with that advice.
- Section .04 (9) addresses the purchase or exchange of an annuity.
- Section .04 (12) of the draft Rule, in the "Care Obligation", specifically addresses exchanges and replacements of annuities.

We respectfully urge the Administration to align with almost half of the country, 19 states, which have adopted the updated NAIC Model Purpose language.

### Section .07 Safe Harbor

So that the Draft Regulation conforms most closely to the NAIC Model, we suggest the language in Subsection F be deleted. ACLI understands that some regulators may be concerned that the "Comparable Standards" concept may be used to avoid oversight by insurance commissioners, but we do believe that the NAIC Model's wording is sufficient to avoid that problem.

### Section .09 Compliance and Penalties

We respectfully request the insertion of the mitigation language under Section .09 in the Compliance and Penalties section. The mitigation language is critical in that it encourages and rewards good behavior by insurers and producers, alike:

*(3) Any applicable penalty under this Section .09 for a violation of this regulation may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a plan or practice.*

We also request the insertion of Subsection D, which protects the exclusive authority of the Administration to enforce this regulation:

*D. The authority to enforce compliance with this regulation is vested exclusively with the commissioner.*

## **Effective Date**

We thank the Administration for providing six (6) months for implementation after the “adoption date” for our member companies to come into compliance with the Draft Regulation. However, it would be helpful to our members if a formal “Effective Date” is included as the final Section of the Rule.

Again, we strongly support the Draft Regulation and believe that it will significantly enhance protections for Maryland citizens contemplating the purchase of an annuity. We believe these protections will be further enhanced by the revisions we have recommended to make the Proposed Rule track the NAIC Model to the greatest extent possible.

The League appreciates the work the Maryland Insurance Administration has done on this issue. Thank you again for the opportunity to provide this feedback on the suitability in annuity transactions regulations. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Celentano", with a long horizontal line extending to the right.

Matthew Celentano  
Executive Director  
The League of Life and Health Insurers of Maryland, Inc.