

Agenda Item #5

Fiduciary Rule/Suitability Discussion

ACLI like other industry players has substantial concerns with the DOL fiduciary rule. Our view that it does significant harm to the very consumers it purports to benefit, however, the overall process has helped bring the industry to a point where it's committed to advocating for a workable best interest standard. While we have pushed for the repeal of the current rule, we are also looking to replace that rule with an elevated standard of care that benefits our customers but at the same time doesn't destroy – without justification – a commission-based annuity sales business model. My discussion item would explore the question of how industry and regulators can achieve this uniform best interest standard of care.

We are also interested in discussing the group's thoughts on SB 383, which applies fiduciary standards more broadly in Nevada, and how this fits with state and federal regulations.

In a related development, the NAIC is urging Commissioners to move forward with ensuring that their states have adopted the latest annuity suitability regulations. ACLI is committed to working with the NAIC to achieve this goal. Here are some key points for your consideration:

- ACLI supports the NAIC *Suitability in Annuity Transactions Model Regulation (Model)*, which sets standards and procedures for suitable annuity recommendations and requires insurers to establish a system to supervise recommendations so that the insurance needs and financial objectives of consumers are appropriately addressed.
- ACLI supports the 2015 version of the Model, which was revised to clarify its application to **contingent deferred annuities (CDAs)** by:
 - Deleting references to variable and fixed annuities and leaving the broader reference to "annuities" in Section 6H, which states that sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements under this regulation.
 - Adding to Section 7 (Producer Training) the clarification that training include how product-specific annuity contract features affect consumers.
- ACLI also supports the 2010 version of the Model, which adopted important changes to:
 - Establish a regulatory framework that holds insurers responsible for ensuring that annuity transactions are suitable, whether or not the insurer contracts with a third party to supervise or monitor the recommendations made in the marketing and sale of annuities;
 - **Require that producers be trained on the provisions of annuities in general, and the specific products they are selling;**
 - Make these suitability standards consistent with the suitability standards imposed by the Financial Industry Regulatory Authority (FINRA).
- Nevada has adopted most of the 2010 updates to the model, but not the producer training provisions highlighted above. We would encourage the Division to adopt those model producer training requirements, along with the 2015 model provisions that recognize Contingent Deferred Annuities.

John Mangan
American Council of Life Insurers
Regional Vice President, State Relations