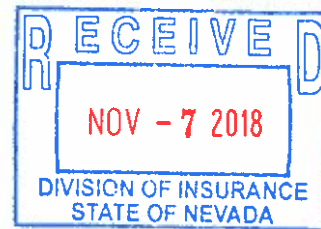




November 7, 2018

The Honorable Barbara Richardson  
Commissioner of Insurance  
Nevada Division of Insurance  
1818 E. College Parkway, Suite 103  
Carson City, Nevada 89706



Re: LCB File No. R165-18 – Annuity Suitability and Best Interest

Dear Commissioner Richardson:

On behalf of our members, the undersigned organizations appreciate the opportunity to provide comments on the above-referenced Proposed Regulation issued by the Nevada Division of Insurance (the “Division”) on October 15, 2018 (the “Proposal”), which would amend a number of provisions of Chapter 688a of the Nevada Administrative Code (Life Insurance and Annuity Contracts) (the “Regulation”). For the reasons described below, we respectfully urge the Division to revise the Proposal to conform with the current (2015) version of the National Association of Insurance Commissioners (“NAIC”) Suitability in Annuity Transactions Model Regulation (the “Model”), and to revisit the Regulation if and when the NAIC adopts any modifications to the NAIC Model in the future.

The Model sets standards and procedures for suitable annuity recommendations and requires insurers to establish a system to supervise recommendations so that consumers’ insurance needs and financial objectives are appropriately addressed. To date, almost all jurisdictions have adopted regulations based on either the current version of the Model (which was adopted by the NAIC in 2015) (the “2015 Model”) or one of the prior versions. The 2006 version of the Model is currently in place in Nevada, and we would strongly support adoption of the 2015 Model to extend the protections provided by that version to Nevada consumers. We would not, however, support adoption of the Proposal in its current form for the reasons set forth below.

We commend you and the Division for recognizing the need for enhanced standards of conduct and rules for financial professionals who work with Nevada consumers. The Proposal, however,

is part of a much larger debate involving numerous regulatory agencies with differing jurisdictions, including the U.S. Securities and Exchange Commission ("SEC"), the U.S. Department of Labor ("DOL"), and the Financial Industry Regulatory Authority ("FINRA") at the federal level, as well as the NAIC, the North American Securities Administrators Association ("NASAA"), and the individual state insurance and securities departments.

The NAIC Annuity Suitability Working Group (the "Working Group") has been working to develop additional enhancements to the 2015 Model for more than a year. Throughout that process, the Working Group has requested public comment on a number of iterations of possible modifications to the 2015 Model. The Proposal appears to be based on one such iteration that was exposed for public comment in mid-2018. The Working Group has since made a number of significant, substantive changes to its working draft, and has not yet completed its work. We do not believe it would be in the interests of Nevada consumers to make significant changes to the Regulation that have not yet been finalized and officially adopted by the NAIC.

In addition, the SEC has a pending proposal to enhance the standard of conduct applicable to broker-dealers and their registered representatives under the federal securities laws (the "SEC Proposal"). In recognition of the importance of a harmonized standard of conduct for annuities across regulatory platforms and the dual jurisdiction of state insurance regulators and the SEC with respect to variable annuities and other registered annuity products, Idaho Insurance Director Dean Cameron, the Chairman of the Working Group, has indicated that the Working Group's effort is aimed at development of a credible draft of modifications to the Model to use for meaningful engagement between the NAIC and SEC. Chairman Cameron has further intimated that the NAIC is unlikely to adopt final modifications to the 2015 Model prior to final adoption of the SEC Proposal.

Moreover, in the broader context of the ongoing federal and state activities, the adoption of differing individual state suitability and best interest regulations would create a patchwork of inconsistent, conflicting or duplicative rules that could significantly impair consumers' access to valuable financial products and professional assistance about whether, when and how to use those products.

For this reason, we request the Division to modify the Regulation to conform with the 2015 Model, but to delay any efforts to further enhance the Model while the federal and state regulators engage in a constructive dialogue aimed at developing appropriate and workable standards of conduct.

SEC Chairman Jay Clayton, DOL Secretary Alexander Acosta, and NAIC leadership have all made public comments indicating their willingness to collaborate with their fellow regulators, and we

understand that discussions are already underway among these regulators. We hope you will recognize the benefits of allowing time for those efforts to play out so as to avoid the creation of duplicative, conflicting, or incompatible rules which could deprive Americans of access to valuable financial products and services.

Thank you for the opportunity to share our views on the Proposal. If you have questions about anything in this letter, or if we can be of any further assistance in connection with this important regulatory effort, please feel free to contact any of the undersigned organizations.

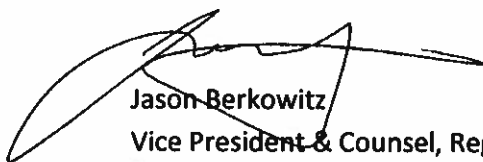
Sincerely,

AMERICAN COUNCIL OF LIFE INSURERS



J. Bruce Ferguson  
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## Sue Bell

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**From:** Jason Berkowitz <JBerkowitz@irionline.org>  
**Sent:** Wednesday, November 07, 2018 2:12 PM  
**To:** Barbara D. Richardson; NV Insurance; Sue Bell  
**Cc:** John Mangan; Bruce Ferguson; Adolf, Maureen; susankrawczyk@eversheds-sutherland.com; Michelle Foster; Gary A. Sanders; Robbie Meyer; Jim Szostek; Howard Bard  
**Subject:** LCB File No. R165-18 - Annuity Suitability and Best Interest  
**Attachments:** Joint Trades Comment Letter to NV DOI re Suitability and Best Interest Proposal (11-7-18).pdf

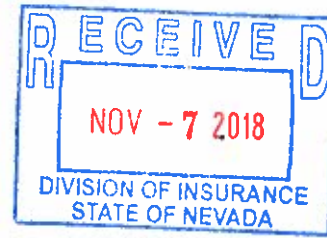
Good afternoon, Commissioner Richardson –

Attached please find a joint comment letter from ACLI, the Committee of Annuity Insurers, the Financial Services Institute, IRI and NAIFA (each of whom is copied on this message) regarding the proposed annuity suitability and best interest regulation (LCB File No. R165-18). Please feel free to contact any of us if you have any questions.

Best regards.  
Jason



**Jason Berkowitz**  
*Vice President and Counsel, Regulatory Affairs*  
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November 7, 2018

The Honorable Barbara D. Richardson  
Insurance Commissioner  
Nevada Division of Insurance  
1818 E. College Parkway, Suite 103  
Carson City, NV 89706

**Re: LCB File No. R165-18 Annuity Suitability and Best Interest**

The Indexed Annuity Leadership Council (“IALC”) appreciates the opportunity to comment on work done by the Nevada Division of Insurance to amend the requirements of the Nevada Administrative Code that apply to annuity transactions.

The IALC is a consortium of life insurance companies that offer fixed indexed annuities (FIAs). IALC was established in 2011 with a mission to educate the public (including regulators) about the benefits of FIAs, which offer principal protection and a predictable, guaranteed retirement income, and can contribute balance to retirement savers’ long-term financial plans. Today there is more than \$330 billion in FIA policies outstanding.

IALC’s comments are narrowly tailored to focus on our concerns that moving forward with LCB File No. R165-18 will potentially cause Nevada to outpace the current NAIC Annuity Suitability Working Group’s efforts on this same issue. Our view is that Nevada should not advance a new regulation on this issue until the Working Group, in its collaboration with other interested regulatory bodies, including the SEC, first develops its own cohesive and workable standard of care for insurance producers. Efforts are ongoing at multiple levels to develop those new rules.

The IALC believes the current state-based regulatory structure and the effectiveness of the Suitability Model have offered a practical regulatory framework to protect consumers. We also

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<sup>1</sup> The IALC is made up of Allianz Life Insurance Company of North America, American Equity Investment Life Insurance Company®, Athene USA, Midland National Life Insurance Company, National Life Group®, and North American Company for Life and Health. It was established in 2011 with a mission to educate the public (including regulators) about the benefits of FIAs, which offer principal protection and a predictable, guaranteed retirement income, and can contribute balance to retirement savers’ long-term financial plans.



believe that the Suitability Model has evolved over the past 15 years to provide strong consumer protection, insurer supervision and insurance producer training requirements, all in an effort to protect against inappropriate sales practices. That said, IALC has joined in with other trade associations in support of a strengthened standard of care, including a workable best interest standard that is focused on disclosure and a clear process for insurance producers and insurers to comply.

While the NAIC, the SEC, FINRA, and potentially the Department of Labor continue to make progress on a new standard of care applicable to advice providers, we are hopeful that individual states will take a measured approach to new rulemaking until those efforts are complete. Our fear is that interim rulemaking by individual states during the pendency of these efforts will result in a patchwork of standards that will make it difficult to comply, and ultimately cause investor and insurance producer confusion. As a result, we are hopeful that Nevada will remain very engaged on this important issue, but will delay any final rulemaking until the NAIC and other regulatory efforts are complete.

Thank you for the opportunity to provide comments. If I can be of any further assistance in connection with this important regulatory undertaking, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Poolman". The signature is fluid and cursive, with a large initial "J" and "P".

Jim Poolman  
Executive Director  
Indexed Annuity Leadership Counsel

## Sue Bell

---

**From:** Matt Hargrafen <MHargrafen@athene.com>  
**Sent:** Wednesday, November 07, 2018 8:08 AM  
**To:** Sue Bell  
**Cc:** Jim Poolman  
**Subject:** Comment Letter Regarding LCB File No. R165-18 Annuity Suitability and Best Interest  
**Attachments:** IALC Comment Letter NV BI Regulation\_11.7.18\_Final.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Morning Susan,

Thank you for the opportunity to comment on LCB File No. R165-18 and the proposed amendment to Nevada's annuity suitability standards. Please see the attached comment letter from the Indexed Annuity Leadership Counsel.

Let me know if you have any questions.

Regards,  
Matt

### **Matt Hargrafen**

Senior Counsel

Athene USA

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