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September 19, 2008

Florence E. Harmon
Acting Secretary
Securities and Exchange Commission
100 F Street
Washington, DC 20549

Re: Preliminary Comments on Proposed Rule 151A and Proposed Rule 12h-7

Dear Ms. Harmon:

ACLI is a national trade association with 353 members that account for 93 percent of the industry's total assets, 93 percent of life insurance premiums, and 95 percent of annuity considerations. Many of our member companies offer and distribute fixed, index and variable annuities through affiliated and independent distributors.

We respectfully submit this preliminary comment on proposed Rule 151A under the Securities Act of 1933 and proposed Rule 12h-7 under the Securities Exchange Act of 1934.[1] Our submission should be treated as a "placeholder" letter in the comment file that will be followed by a more extensive submission dealing with the many substantive aspects of the proposals and addressing the 100 individual questions in the release.

As the largest national trade association representing life insurers, it is prudent to take the time necessary to properly analyze the complex and comprehensive proposals on a consensus basis that is inclusive of our broad membership, particularly on matters that are subject to legitimate differences of opinion within the industry. The proper development of fair and balanced input on the proposals requires substantial time and resources.

We requested an extension to the comment period so that our policy making committees could provide constructive, informed input. At the conclusion of the original comment period, the SEC declined to grant a reasonable time extension. At this time, therefore, we have not completed the process of policy development and approval. We hope to file a supplemental submission to this preliminary letter of comment.

Overview of the Proposed Initiatives

Proposed Rule 151A involves the status of indexed annuities under the federal securities laws, and proposed Rule 12h-7 involves relief from periodic reporting requirements for certain insurance and

[1] *See* Indexed Annuities and Certain Other Insurance Contracts, Rel. Nos. 33-8933 and 34-58022 (June 25, 2008).

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annuity contracts. The proposals were published June 25, 2008, and have a comment period that expired on September 10, 2008, approximately 70 days after publication.[2]

The initiative is significant and complex. It reflects detailed interpretation of congressional intent, judicial decisions, and SEC administrative history. Proposed Rules 151A and 12h-7 would have a considerable impact on the insurance products to which they would apply and the insurers and distributors that issue and sell those products. The release spans nearly 100 pages and seeks responses to 100 individual, detailed questions.

Summary of Position

- ACLI acknowledges the SEC's concern with market conduct deficiencies involving suitability, supervision, and disclosure in the sale of certain annuities, as well as its responsibilities to appropriately interpret the federal securities laws.
- Life insurers fully support strong consumer protection for annuity purchasers, including suitability, supervision and disclosure standards in the sale of all annuities, whether registered or not.
- The industry has made significant strides in developing and implementing improved, uniform sales practice standards that are appropriate for the particular marketplace, including the development of summary disclosure giving consumers the tools to make informed purchase decisions.
- The initiatives are complex and comprehensive. They may have a significant impact on life insurers and distributors selling the products under examination. ACLI has assigned the highest priority to reviewing and analyzing these comprehensive SEC proposals.
- We support the adoption of proposed Rule 12h-7 as a constructive change recognizing the significance of comprehensive financial disclosure and oversight under state insurance laws. Several aspects of Rule 12h-7 may need further refinement to be fully effective.
- As a preliminary observation, the mechanics of proposed Rule 151A may, as a practical matter, be exceptionally difficult to administer, and may establish an overly broad scope that includes many traditional annuities beyond the SEC's stated concerns and the proposed rule's intent.
- The approach and standards in Rule 151A may create unintended consequences, such as exposure to significant litigation risks and class action lawsuits.
- Our policy development groups are carefully considering a variety of possible alternatives to the approach taken in proposed Rule 151A, including whether further clarifications and enhancements to the standards in the existing Rule 151 safe harbor may provide a more effective means to achieve the SEC's stated goals.
- It is important to assure that any rule on this subject properly implements Section 3(a)(8), its legislative intent, judicial interpretations, and the SEC's long administrative history.
- The full costs and benefits of any interpretive actions must be fully identified before any rule on this subject is advanced. There are significant short and long-term systemic costs related to disclosure and distribution that have not been identified and discussed in the proposal.
- Annuities play an important role in the mix of retirement vehicles available to consumers. If confusion about Section 3(a)(8)'s scope and application arises because of the difficulty of applying the proposed rule and thereby diminishes the sale of fixed annuity contracts, it could unnecessarily narrow the range of possible retirement solutions.

[2] The proposal appeared in the Federal Register on July 1, 2008. We note that the comment period occurred at the peak of the summer vacation period, and began shortly before the July 4 federal holiday and ended shortly after the Labor Day federal holiday.

Statement of Position

On a careful reading of the release, three primary concerns emerge: suitable sales practices, adequate supervision, and appropriate disclosure in the distribution of certain annuities. At the outset, we emphasize that deficient market conduct is unacceptable and wrong. ACLI has developed systemic enhancements to improved market conduct in numerous actions over the years. Almost immediately after the 2006 NASD Annuity Roundtable, ACLI devoted significant effort to fulfill the primary emphasis of regulators at that Roundtable: comparable suitability, supervision and disclosure in the sale of annuities, whether registered under the federal securities laws or not.

Our industry is fully committed in word and action to ensuring that consumers have disclosure on which to make an informed purchase decision, and that all sales be made in accordance with appropriate suitability and supervision standards. We support uniform adoption of these standards in all states. ACLI has developed suitability monitoring guidelines and worked with the North American Securities Administrators Association (NASAA) closely to advance a parallel regulatory initiative at the NAIC to combat unacceptable use of credentials or designations.

To recap, therefore, the life insurance industry fully understands the SEC’s concerns about appropriate suitability, supervision and disclosure for annuity purchasers. As a preliminary observation, however, Rule 151A may not achieve these goals in the most efficient manner possible.

Additionally, the rule may impose unintended consequences that derive from the specific design of the rule. The mechanics of the rule may establish a scope so broad as to pull in a wide range of fixed annuities that are well beyond the SEC's regulatory concern, and outside the scope of congressional intent. Likewise, the rule's mechanics could unnecessarily expose some life insurers to significant litigation risk through misapplication of relatively difficult standards of measure.

Implementation of the proposals’ cost for many companies will be far greater than estimated in the release. Enterprise-wide compliance costs, including recurring and systemic expenses, must be identified and justified. In this way, a complete cost-benefit balance can be achieved. As a critical preliminary observation, we do not believe that the use of Form S-1 is the most effective or appropriate way to achieve the SEC’s worthwhile goal of meaningful disclosure. This form mandates extensive disclosure that would have little to do with informed decision-making in annuity purchases. The full impact of the proposal, especially disclosure, should be carefully evaluated. Form S-1 is not a good solution for consumers, the SEC, or life insurers.

While we share here some preliminary observations on the rule, we hope to provide the SEC with a supplemental letter that would provide a careful review of the proposal against the significant guidance of the statute, legislative history, judicial precedent, and the SEC's administrative history on this issue. To reiterate, we support the SEC's endeavors to clarify the relevant elements for reliance on Section 3(a)(8). The SEC has addressed this issue comprehensively on four prior occasions: Rule 151, the SEC’s brief in the *Otto* case, the SEC’s Investment Company Act Study, and the index annuity concept release in 1998.

In the end, with clarity and well-reasoned guidance, the SEC will retain and enhance the proper limits of Section 3(a)(8) so that consumers are protected from inappropriate conduct, and the line is established to accurately reflect congressional intent and judicial decisions, as products and distribution practices evolve in the modern economy. It is important to devote sufficient time to draw the line carefully to avoid inadvertent extension inconsistent with the statute's purpose and congressional intent. We believe that a qualitative facts and circumstances approach will yield a proper result, and are endeavoring to provide detailed guidance and recommendations that reflect consensus within our large and diverse membership.

Legislative, Judicial and Administrative Background on Section 3(a)(8)

We have digested the long and detailed history of Section 3(a)(8) as a guidepost to these important historical sources of authority. We hope to provide a supplemental submission that will carefully examine Rule 151A in light of these statutory, judicial, and administrative precedents. The presentation on these matters below is intended to be a neutral historical discussion, as ACLI has not yet developed its policy position on Rule 151A. Our policy-making groups will continue to evaluate the proposed Rule 151A against these valuable guideposts.

- *Statutory Foundation*

Section 3(a)(8) exempts from registration under the Securities Act of 1933:

> [a]ny insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions of any State or Territory of the United States or the District of Columbia."

Significantly, Section 3(a)(8) is an *exclusion* from the 1933 Act, *not an exemption from registration*. The legislative history of Section 3(a)(8) is unequivocal on this point, and states that:

> Section 3(a) (8) makes clear what is already implied in the act, namely, that insurance policies are not to be regarded as securities subject to the provisions of the [1933] act. The insurance policy and like contracts are not regarded in the commercial world as securities offered to the public for investment purposes. The entire tenor of the act would lead, even without this specific exemption, to the exclusion of insurance policies from the provisions of the act, but the specified exemption is included to make misinterpretation impossible.[3]

- *Interpretation of Section 3(a)(8) through the Courts*

Life insurers introduced new designs in annuity contracts and insurance policies that reflected changes in the economy during the 1950s and 1960s, and responded to the changing needs and interests of insurance consumers. During this period of product expansion and differentiation, courts and regulators carefully evaluated whether these new "hybrid" contracts that contained both insurance and investment features were "insurance" within the meaning of Section 3(a)(8), or instead, securities required to be registered under the 1933 Act.[4]

[3] H.R. Rep. No. 85, 73rd Cong., 1st Sess. 15 (1933).

[4] *See*, Roth, *Evaluating the Federal Securities Law Status of Equity Indexed Insurance Products*, ("Roth") ALI-ABA Conference on Life Insurance Company Products: Current Securities, Tax ERISA, and State Regulatory Issues at 331 (1997), which provides a scholarly evaluation of EIPs under the federal securities laws. The discussion in this submission about Section 3(a)(8), related court decisions, and Rule 151 parallels or draws, in part, from Roth, with permission. *See also*, McConnaughey and Goldstein, *Insurance Products Regulated as Securities*, 21st Annual University of Connecticut School of Law Insurance Institute (Oct. 1997), which provides a detailed discussion of Section 3(a)(8) and related court decisions.

The Supreme Court initially addressed this question in *SEC v. Variable Annuity Life Insurance Company*[5], and held that a variable annuity that places all the investment risk under the contract on the annuitant (and none on the issuer) is not insurance, but a security.[6] The Court stated that without a "true underwriting of risks," and without a "floor" of value guaranteed by the issuer, annuities cannot be insurance. According to the Court, "the concept of 'insurance' involves *some* investment risk-taking on the part of the company. . . and a guarantee that at least *some* fraction of the benefits will be payable in fixed amounts."[7]

The Court also stated that the assumption by an issuer of some level of mortality risk is not of itself sufficient to bring a variable annuity within Section 3(a)(8).[8] Regarding the balance between the "insurance" and "securities" features of a pure variable annuity, Justice Brennan observed that "even though these contracts contain features of traditional annuity contracts, administering them also involves a very substantial, and in fact, predominant element of the business of an investment company, and in a way totally foreign to the business of a traditional life insurance and annuity company, as traditionally regulated by state law."[9]

In *SEC v. United Benefit Life Insurance Company,*[10] the U.S. Supreme Court again evaluated the status under the federal securities laws of a hybrid annuity contract called a "Flexible Fund Annuity". The Court stated that the *degree* of investment risk assumed by the insurer is a significant factor in a section 3(a)(8) analysis."[11] The Court determined that it was appropriate to analyze accumulation and annuity phases of the contract separately, and focused its analysis on the *accumulation* phase.

In *United Benefit*, the Supreme Court carefully evaluated guarantees in the annuity contract under study. For background and analysis, the contract's features merit summarization. The Flexible Fund Annuity

[5] 359 U.S. 65 (1959) ("VALIC").

[6]VALIC's business consisted solely of the issuance of variable annuity contracts out of its general account. After the VALIC decision, VALIC was no longer primarily offering annuity contracts exempt from Securities Act registration and therefore the insurer no longer qualified for the exemption from investment company registration for insurance companies. VALIC was required to register its general account as an investment company under the Investment Company Act of 1940. *See,* Report of the Division of Investment Management of the Securities and Exchange Commission Regarding the Securities Act Status of Guaranteed Investment Contracts and the Investment Company Act Status of Issuers of Such Contracts (Jan. 20, 1987) ("1987 Report").

[7]359 U.S. at 71 (emphasis added).

[8]*Id.* at 71 (emphasis added). In a discussion of the VALIC case, the Commission staff noted in a 1987 report that "[U]nder a variable annuity contract, a contract owner's purchase payments are invested in a pool of securities and benefits under the contract that vary directly with the pool's investment performance. In the purest form of variable annuities, the insurer does not guarantee any level of benefits and does not assume any investment risk."1987 Report at 3.

[9]*359 U.S.* at 81. The Justice noted that in the context of a variable annuity, "examination by state insurance officials to determine the adequacy of reserves and solvency become less and less meaningful.... And the detailed protections of the 1940 legislation -- disclosure of investment policy, regulation of changes of that policy, of capital structure, conflicts of interest, investment advisers -- all become relevant in an acute way here." *Id.* at 85.

[10] 387 U.S. 202 (1967).

[11]*Id.* at 210.

guaranteed that the cash value of the variable annuity would never be less than 50% of net premiums paid and that, after ten years, the value would be no less than 100% of the aggregate net premiums paid under the contract. During the accumulation phase, net premiums were placed in a separate account, composed primarily of common stocks. The value of the accumulated net premiums thereafter varied according to the investment experience of the separate account. At maturity, the purchaser could convert the value of his or her interest to a fixed annuity or elect to receive the greater of his or her interest in the separate account or aggregate net premiums.

In this case, the Supreme Court carefully evaluated whether the contract's guarantees were sufficient to create "insurance." The Court stated that it "had little difficulty" in concluding that the accumulation portion of the Flexible Fund Annuity did not fall within the exclusion for insurance in Section 3(a)(8).[12] The Court concluded that "[i]nstead of promising to the contract holder an accumulation of savings at interest, the insurer promise[d] to serve as an investment agency and allow the contract holder to share in its investment experience."[13]

The Court noted that " [t]he insurer is obligated to produce no more than the guaranteed minimum at maturity, and this amount is *substantially less* than that guaranteed by the same premiums in a conventional deferred annuity contract."[14] Thus, at least in early years, the contract did not meet minimum non-forfeiture law requirements for single premium deferred annuities or flexible premium deferred annuities. Nonforfeiture requirements under state insurance law, therefore, are one of several important ingredients to the Section 3(a)(8) analysis.

In *United Benefit*, the Court emphasized that "the 'Flexible Fund' arrangements required *special modifications of state law* and were considered to appeal to the purchaser not on the usual insurance basis of stability and security but on the prospect of 'growth' through sound investment management, and while the guarantee of cash value based on net premiums reduces substantially the investment risk of the contract holder, the assumption of an investment risk cannot by itself create an insurance provision under the federal definition. The basic difference between a contract which to some degree is insured and a contract of insurance must be recognized."[15]

The Supreme Court also focused on marketing as an important ingredient in the mix of factors to be evaluated in Section 3(a)(8). Finding it "equally clear" that the accumulation phase of the Flexible Fund Annuity constituted an "investment contract," the Court cited *SEC v. Joiner Leasing Corp*.[16] and stated that: "the test ... is what character the instrument is given in commerce by the terms of the offer, the plan of distribution, and the economic inducements held out to the prospect." The Court noted that

[12]*Id*. at 210.

[13]*Id*. at 208.

[14]*Id* (footnotes omitted).

[15]*387 U.S.* at *211* (note and citation omitted; emphasis added). In its *1987* Report, the Division of Investment Management added a "gloss" to United Benefit's discussion of investment risk, interpreting that case to require that insurers guarantee at least 100% of premiums with interest: "While [*United Benefit*] provides no more specific guidance concerning the degree of risk that the insurer must assume, it does imply that, at a minimum, the principal amount of purchase payments and at least some rate of interest thereon must be guaranteed." *1987* Report at 5.

[16]*320 U.S. 344,* 352-53 *(1943).*

contracts like the Flexible Fund Annuity offered important competition to mutual funds, and "are pitched to the same consumer interest in growth through professionally managed investment. It seems eminently fair that a purchaser of such a plan be afforded the same advantages of disclosure which inure to a mutual find purchaser under §5 of the Securities Act." [17]

❖ *Rule 151 under the 1933 Act*

Rule 151 under the 1933 Act provides an important benchmark of specific regulatory guidance concerning the status of new products under Section 3(a)(8). This administrative action by the SEC added significantly to the analytical guideposts that evolved through the various judicial pronouncements on this statutory provision.

In 1986, the Commission promulgated Rule 151, a "safe harbor."[18] Contracts that meet the conditions of the rule are deemed to fall within Section 3(a)(8). Contracts outside of the safe harbor may also rely directly on Section 3(a)(8); however, the "rationale underlying the conditions [of] Rule 151 is relevant to any Section 3(a)(8) determination."[19] Importantly, however, Rule 151 is *not* an exclusive gateway or precondition to fulfilling Section 3(a)(8). This distinction has escaped the understanding of some observers who misinterpreted Rule 151 as more than an administrative safe harbor.

In proposing and ultimately adopting Rule 151, the SEC provided a significant amount of detailed guidance regarding its views on the scope of Rule 151, and on the factors that are relevant to making a determination as to whether a contract falls within Section 3(a)(8).[20]

❖ *The Conditions of the Rule 151 Safe Harbor*

To fall within the safe harbor, an annuity must satisfy several conditions:

1. The contract must be issued by a corporation ("issuer") subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia.

2. The insurer must assume the investment risk under the contract, as prescribed in the rule. The rule provides that the insurer shall be deemed to assume the investment risk under the contract if:

- The value of the contract does not vary according to the investment experience of a separate account;

- For the life of the contract,

[17] *387 U.S.* at 211.

[18] Definition of Annuity Contract or Optional Annuity Contract, Securities Act Release No. 6645, [1986-87 Transfer Binder] Fed. Sec. L. Rep. (CCH) 184,004 (May 29, 1986) at 88,129 ("Release 6645").

[19] Release 6645 at 88,138.

[20] Life insurance contracts technically cannot rely on the Rule 151 safe harbor, which is only available to annuity contracts. However, the Commission has indicated that it is appropriate to apply the principles of Rule 151 to life insurance contracts in determining their status under the federal securities laws.

- the insurer guarantees principal and return of previously credited interest thereto (less charges for sales, administrative or other expenses or charges)[21],

- the insurer must credit a specified rate of interest (at least equal to the minimum nonforfeiture interest rate for individual annuities) to net purchase payments and interest credited thereon, and

- The insurer must guarantee that the rate of any excess interest to be credited in excess of the rate described immediately above, including indexed excess interest, will not be modified more frequently than once per year.[22]

Although the language of Rule 151 does not speak directly to indexed contracts, Release 6645 *permits* the use of an external index to determine excess interest rates, so long as the excess rate is not modified more frequently than once per year.[23] Accordingly, an insurer may specify an index to which it will refer, no more often than annually, to determine the excess rate that it will guarantee under the contract for the next twelve-month or longer period. After determination, the rate of excess interest credited to a particular purchase payment or to the value accumulated under the contract must remain in effect for at least the one-year time period established by the rule. While the rate of interest calculated under a particular index or formula may fluctuate upward or downward on a daily basis, the excess interest rate actually credited may not fluctuate more than once per year.[24]

3. The contract cannot be marketed primarily as an investment.

- The Commission retained a "marketing" test as part of the safe harbor. Release 6645 notes that in *United Benefit*, the insurer advertised its product by "emphasizing the possibility of investment return and the experience of United's management in professional investing," and observed that "[t]he Supreme Court found this activity to be highly relevant in concluding that the contract did not fall within the insurance exclusion of section 3(a)(8) of the [1933] Act.[25]

  - Release 6558 noted that since all annuity contracts have some investment features, it is difficult to identify when a contract is being

[21]Contracts with market-value adjustment features may not rely on the rule.

[22]As the Commission noted in proposing Rule 151, "[u]nder a traditional annuity contract, *the insurer assumes the investment risk* because it guarantees for the life of the contract (1) the principal amount of purchase payments made and interest credited thereto and (2) to pay a specified rate of interest." Securities Act Release No. 6558, (1984-85 Transfer Binder] Fed. Sec. L. Rep. (CCH) 183,710 at 87,159 n. 3 (Nov. 21, 1984) ("Release 6558") (proposing Rule 151)(emphasis added). Release 6645 at 88,436 (emphasis added; footnotes omitted).

[23]Increases in excess rates are permitted, so long as the new higher rate cannot be reduced for a further one-year period.

[24]See, Release 6645.

[25]See Release 6558 at 87,162.

marketed primarily as an investment.

- The substance of the insurer's total marketing plan for the product must be targeted to appeal to purchasers on the usual insurance basis of stability and security.[26] This does not mean that "an insurer in marketing its product cannot describe the investment nature of the contract, including its interest rate sensitivity and tax favored status."[27]

- The release states that "[a] marketing approach that fairly and accurately describes both the insurance and investment features of a particular contract, and that emphasizes the product's usefulness as a long-term insurance device for retirement or income security purposes, would undoubtedly "pass" the rule's marketing test. By way of contrast, if a contract is promoted with prime emphasis on current discretionary excess interest, and the possibility of *future* interest, or other investment-oriented features of the contract, that contract would likely fail the marketing test."[28]

- Rule 151, therefore, does not exclude contracts with indexed interest rates from satisfying the marketing test.

❖ *SEC Amicus Brief Provides Additional Clarification on the Scope of Rule 151*

In *Otto v. VALIC*,[29] VALIC petitioned the U.S. Supreme Court for a writ of certiorari, seeking a review of the Seventh Circuit's decision, in which the Seventh Circuit held that VALIC's fixed annuity contract was a security.[30] The U.S. Solicitor General submitted an amicus brief that was signed by, and also expressed the views of, the Commission. This statement of the SEC's views provides valuable clarifications on the purpose and intent of Rule 151's ingredients.

In the amicus brief, the Commission reasserted the "safe harbor" status of Rule 151. Calling the Seventh Circuit's reasoning "unclear," the brief states that

- The court's opinion on rehearing indicates that the court believed VALIC's fixed annuity failed to qualify as an "annuity contract" solely because the fixed annuity did not satisfy one element of the test set forth in the Commission's Rule 151 -- *i.e.,* that the excess-interest rate be guaranteed for at least one year. If that was

[26]*Id.*

[27]*Id*.

[28]*Id*.

[29]Variable Annuity Life Insurance Co. v. Otto, 486 U.S. 1026 (1988) (denying certiorari).

[30]The Seventh Circuit Court stated that "[a] claimed right to change established excess interest rates and to eliminate excess interest payments entirely *at any time* surely tends to shift the investment risk from VALIC to the plan participant...The SEC in adopting Rule 151 rejected VALIC's view that guaranteeing a low minimum interest rate is a sufficient assumption of the investment risk by the insurance company.... We find that on the facts of this case the minimum interest rates guaranteed under VALIC's fixed annuity plan, although they are somewhat in excess of those required by Rule 151, alone do not place the investment risk on VALIC sufficiently to exempt the plan from the federal securities laws. *Id*. at 814 F.2d at 1134.

the court's reasoning, it was mistaken. As a safe harbor, Rule 151 does not express the Commission's views on the outer limits of the [Section 3(a)(8)] exemption.[31]

- The Amicus Brief explains that the status of VALIC's annuity contract under Section 3(a)(8) should be determined not only by reference to Rule 151, but also to the Supreme Court's earlier decisions in *VALIC* and *United Benefit*. Noting that under these cases and associated Commission interpretations, "it is clear that the assumption of substantial "investment risk" by the insurance company is one crucial factor."

- The brief additionally states that VALIC assumed substantial investment risk under the fixed-annuity contract sold to Otto. Under the contract, VALIC guaranteed return of principal, return of previously credited interest, and a guaranteed interest rate for the life of the contract of at least 3 % or 4%. Values did not vary with a separate account. Excess rates could, however, be changed at VALIC's discretion.

- The brief states that "[n]onetheless, we believe that VALIC bore sufficient investment risk under the contract to meet the investment risk criterion of Section 3(a)(8)."[32]

We have digested the legislative, judicial and administrative history surrounding Section 3(a)(8) to provide a platform to analyze proposed Rule 151A. As noted above, our policy-making groups are diligently screening the proposed rule against these important authoritative guideposts. We hope to share our observations and recommendations subsequently in a supplemental submission after our policy crystallizes.

Meaningful Input Warrants a Balanced, Consensus-Based Approach

ACLI promptly circulated the initiative to its membership and convened an in-person meeting of its Securities Regulation Committee and its Annuities Committee. We have established three working groups that are working to address different aspects of the proposed rules and to develop consensus positions for review and approval of the committees and a board-level steering committee. Through this process, we hope to achieve broad, consensus-based policy development and provide meaningful, substantive regulatory feedback. It is, however, meticulous and time consuming.

Our groups preliminarily determined that the proposals will have a broad and complex reach beyond that principally discussed in the SEC's release. The important task of identifying and thoroughly analyzing the full implications of proposed Rule 151A will require concentrated focus and time. We will need to evaluate legal, regulatory, structural and financial implications for annuity issuers. Moreover, each of these considerations must be analyzed for different life insurers based on product design, marketing practices, distribution arrangements and operational structures. Additionally, the proposal's impact on consumers and state laws must be carefully reviewed.

[31]Brief for the United States as Amicus Curiae at 6, *Variable Annuity Life Insurance Co. v. Otto,*486 U.S. 1026 (May 23, 1988) (No. 87-600) (denying certiorari) ("Amicus Brief").

[32]Amicus Brief at 8.

Industry groups like ACLI circulate regulatory proposals, elicit membership input, develop a consensus, and disseminate draft letters of comment before submission. This worthwhile, but time intensive, process is difficult to execute in a rushed atmosphere, particularly given the proposal's significance and complexity.

We strongly encourage the SEC to provide a publicly noticed extension of the original comment deadline. In this way, the SEC will elicit the most useful and informed feedback. These important and complicated initiatives should not be hurried. There is no emergency situation needing correction in such a severely short comment timetable. The 70 day comment timetable was considerably shorter than many other SEC rulemakings of equivalent depth and complexity. The SEC should provide equally reasonable time periods for industry comment on this initiative.

ACLI will endeavor to provide thoughtful, responsive comment on the initiative. It is important that the SEC allow thorough review and analysis necessary for thoughtful, complete input.

Administrative Procedure Act Responsibilities Should be Fairly Executed

The special time burdens confronting regulated industries and large organizations in digesting regulatory proposals were explicitly recognized by the Administrative Conference of the United States in its publication entitled *A Guide to Federal Agency Rulemaking*[33] ("*Guide*"), which notes that:

> [i]nterested persons often are large organizations, which may need time to coordinate an organizational response, or to authorize expenditure of funds to do the research needed to produce informed comments.[34]

The *Guide* reviews the legislative history of the Administrative Procedure Act (APA) and emphasizes that the notice of proposed rulemaking "must be sufficient to fairly apprise interested parties of the issues involved, so that they may present responsive data or argument." [35] The *Guide* further explains that rules developed through notice and comment procedures must be rational, and that notice and opportunity for comment under §553 of the APA should properly "give interested persons a chance to submit available information to an agency to enhance the agency's knowledge of the subject matter of the rulemaking."[36] The *Guide* also points out that "informal rulemaking procedures should provide interested persons an opportunity to challenge the factual assumptions on which the agency is proceeding and to show in what respect such assumptions are erroneous."[37] Our request for an extended comment period comports with these goals.

In 1997, the SEC invited comment on a concept release on equity index insurance products[38], which elicited extensive scholarly comment.[39] Eleven years later, the SEC published proposed Rule 151A in

[33] *See, A Guide to Federal Agency Rulemaking* (1983) at 124. The American Bar Association updated and republished this *Guide* in 1998. *See* Lubbers, A Guide to Federal Agency Rulemaking, Third Edition (1998), American Bar Association, Government and Public Lawyers Division and Section of Administrative Law and Regulatory Practice. Subsequent citations to the Guide are to the updated and revised ABA publication.
[34] *See* Guide at 196.
[35] Administrative Procedure Act: Legislative History, S. Doc. No.24879-258 (1946) [hereinafter legislative history of the APA].
[36] *See* Guide at 197.
[37] *Id.* at 182 and 196.
[38] *See* Release No. 33-7438; File No. S7-22-97 (Aug. 20, 1997)
[39] ACLI submitted a detailed submission on the concept release. *See* File No. S7-22-97.

June 2008. In 2006, the SEC commenced a review of index annuity contracts, advertising, and complaints that had been voluntarily shared with the SEC upon request by ten of the larger index annuity writers. Between 2006 and the publication of the proposal, the SEC reviewed and analyzed the index annuity data. The SEC's thorough and deliberative approach on these matters underscores their complexity and significance. As the SEC took the time necessary to review, digest, and formulate its proposal, the industry should also reasonably spend the necessary time to digest, review and respond to the many detailed issues in the release.

Specific Needs Justifying an Extended Comment Period

Several factors justify a substantially extended comment period. In addition to the substance of proposed Rule 151A and proposed Rule 12h-7, the release posits global questions that demand thorough analysis and informed response. For example, the release elicits comment on whether the scope of the proposed rule should be enlarged beyond indexed annuities to include other annuities, life insurance, or health insurance. Questions of this nearly unlimited nature require extensive review and formulation of policy. These questions alone warrant a reasonably extended comment period.[40]

Similarly, the release invites comment on Paperwork Reduction Act issues about increased disclosure burdens associated with using existing Form S-1 to register products triggering Rule 151A. Separate from the many securities status issues in the initiative, the use of Form S-1 by annuity issuers will require meticulous, time-consuming scrutiny. Moreover, the release inquires whether better disclosure could be achieved through an amended version of Form N-4, the registration statement for variable annuity separate accounts organized as unit investment trusts under the Investment Company Act of 1940.

As a point of comparable reference, ACLI submitted a rulemaking petition to establish what became Form N-6 in 1993. Nine years later, the SEC adopted Form N-6.[41] Clearly, the proper development of appropriate insurance product disclosure is not a simple or unimportant task that can be executed in a speedy fashion. Most importantly, however, in the overall context of the initiative is the fundamental issue of what format provides the best, most-likely-to-be-read disclosure that promotes informed decision-making. This cannot be achieved in an unusually short comment period in light of the proposal's magnitude.

The release outlines a cost-benefit analysis of the initiative. We appreciate the opportunity to review and respond to these important, practical realities of the proposal. While the release identifies several potential costs to the proposal, a variety of others can be identified and analyzed. For example, Rule 151A would invoke substantial structural, operational, and expense considerations due to distributors' compliance with registered broker-dealer standards and FINRA requirements.

[40] Unlike some other commentators, ACLI's submission will reflect the views of 353 life insurance companies representing 95% of the annuities business. Our consensus-based position, therefore, will provide substantial, broad input for the SEC on this initiative. By the same token, however, the process of achieving consensus is more time consuming for a large organization representing wide, and possibly diverse, interests. This task is further complicated because the proposal could conceivably affect all 353 of our members if it is adopted as proposed. In turn, many permutations exist for each company depending on product lines, sales force composition, and operational structure.

[41] *See* Wilkerson, *The Administrative History of Variable Life Insurance Registration Form N-6: The Proposal's Purpose, Design and, Intent*, ALI-ABA Conference on Life Insurance Company Products: Current Securities and Tax Issues (2002) at 151 for a detailed discussion on the administrative history and logistics of designing a custom tailored registration form for variable life insurance.

It is important to identify and calculate the costs and burdens of requiring broker-dealer distribution of index annuities and possibly other insurance products. Significant structural, system and operational changes will be required for companies without existing broker-dealer arrangements. Additionally, the release does not include the added expense of FINRA membership charges from enlarged monthly FOCUS reports that would include a new category of registered securities. Training, education, examination, and continuing education factors for newly registered salespersons must be estimated and balanced in any meaningful cost-benefit analysis.

It is important to evaluate the release's assessment about the scope of problems needing rectification, particularly under the standards of the SEC's Data Quality Assurance Guidelines.[42] It is important to be able to properly identify the market conduct issues under examination in order for commentators to execute a fair cost-benefit analysis.

The complex investment risk mechanics of proposed Rule 151A demand careful review, particularly considering their potential exportation to products other than index annuities. This analysis cannot be achieved in a compressed timeframe. The exposure to external liability and litigation in applying the proposed methodology must also be evaluated as compliance and litigation risk considerations in commenting on the rule.

In responsibly formulating comment, our members are digesting the initiative to discern any unintended consequences that should be properly highlighted for the SEC's attention. This high-level conceptual review of all the proposal's features is fundamental to any rulemaking analysis.

Enhancements to Responsible Conduct in the Annuity Marketplace

ACLI has actively and constructively participated in numerous SEC rulemaking initiatives over many years. We fully understand the SEC's concerns about appropriate conduct in the marketplace, and note the release's repeated emphasis on suitability, supervision, and disclosure.

In a very related context, ACLI devoted substantial energy to proactively enhancing suitability, supervision, and disclosure in the distribution of annuities. ACLI's board-level CEO Task Force on Annuities established an active legislative and regulatory agenda to fulfill these goals, including:

- Our summary disclosure initiative[43] for fixed, indexed and variable annuities that parallels the operating principles in the SEC's commendable endeavors concerning simplified mutual fund disclosure.
    - We shared the summary disclosure with the SEC staff for information and feedback.
    - We have worked with FINRA following its 2006 Annuity Roundtable to use this disclosure initiative to address directly some of the observations of the regulators who participated.
- Adoption in every jurisdiction of the NAIC Suitability in Annuity Transactions Model Regulation[44] and the NAIC Annuity Disclosure Model Regulation[45].

[42] *See* http://www.sec.gov/about/dataqualityguide.htm These guidelines indicate that the SEC "takes pride in the quality of its information and is committed to disseminating information that meets the Commission's already rigorous standards for objectivity, integrity and utility." The release's identification of the scope of market conduct abuse appears to be derived from sources external to the SEC and should be open to reasonable scrutiny.
[43] *See* NAIC Model Regulation Service II-275-1 (June 2006). *See* Wilkerson, *ACLI Disclosure Initiative for Fixed, Index, and Variable Annuities: Constructive Change on the Horizon,* ALI-ABA Conference on Life Insurance Company Products: Current Securities and Tax Issues (2007) at 217, for an extensive discussion on the purpose, background and substance of the ACLI summary disclosure initiative for annuities.

- o The Suitability in Annuity Transactions Model Regulation establishes annuity suitability and supervision standards drawn directly from FINRA rules on these issues.
  - o We are working with the NAIC and state insurance commissioners, including state pilot programs, to have our summary disclosure initiative become a uniform approach to informed decision-making under the Annuity Disclosure Model Regulation
- Development of Suitability Monitoring Guidelines to implement supervisory obligations under the Suitability in Annuity Transactions Model Regulation.
  - o These guidelines parallel SEC and FINRA exception reporting concepts used by broker-dealer in fulfilling enterprise-wide supervisory compliance.
- Development and support for the NAIC Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities.
  - o In developing its recommendations for this NAIC model, ACLI coordinated with the North American Securities Administrators Association (NASAA) on its parallel initiative for state securities administrators.
  - o The language of the NAIC and NASAA models are virtually identical.

A detailed explanation of the significant initiatives discussed above appears in Appendix A to this submission. We believe these developments are relevant to the issues under study by the SEC.

Conclusion

The life insurance industry is committed to enhancing appropriate market conduct in the sale of annuities, particularly regarding suitability, supervision, and disclosure. We look forward to working with the SEC to achieve these mutual goals.

We greatly appreciate the opportunity to comment on proposed Rule 151A under the Securities Act of 1933 and Rule 12h-7 under the Securities Exchange Act of 1934. These comprehensive initiatives merit thorough analysis and comment. We hope to file a supplemental letter of comment on various substantive aspects of the proposals after our policy development groups have completed their review and recommendations. We strongly encourage the SEC to publish an extended comment period on these initiatives so that the most useful and informed input can occur on these very complex initiatives.

Please let me know if we can provide any additional background, or answer any questions that may develop.

Sincerely,

Carl B. Wilkerson

Carl B. Wilkerson.

Copy: Susan Nash, Associate Director, Division of Investment Management
Keith E. Carpenter, Senior Special Counsel, Division of Investment Management
Michael, L. Kosoff, Attorney, Division of Investment Management

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[44] See Wilkerson, *Suitability and Supervision in the Distribution of Insurance Products: Multiple Moving Parts*, PLI-Understanding the Securities Products of Insurance Companies (2008) at 403 [discussion of NAIC Suitability in Annuity Transactions Model Regulation] and at 443 [discussion about NAIC Annuity Disclosure Model Regulation].
[45] *See* NAIC Model Regulation Service II-275-1 (June 2006).

APPENDIX A

The Convergence of Regulatory and Industry Initiatives Governing Suitability, Supervision, Disclosure, and Credentialing in the Sale of Annuities

Carl B. Wilkerson, Vice President & Chief Counsel-Securities & Litigation
American Council of Life Insurers

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NAIC SUITABILITY IN ANNUITY TRANSACTIONS MODEL REGULATION: A COORDINATED APPROACH TO SUITABILITY AND SUPERVISION IN THE SALE OF INDIVIDUAL ANNUITY CONTRACTS

Carl B. Wilkerson, Vice President & Chief Counsel-Securities & Litigation
American Council of Life Insurers

I. Recent Modifications Enlarge Suitability and Supervision Responsibilities in NAIC Model Regulation

A. In June 2006, the NAIC adopted substantial amendments to this regulation, so that suitability and supervision standards apply to all ages in individual annuity sales.

B. The prior version of this regulation, previously entitled the Senior Protection in Annuity Transaction Model Regulation, applied only to transactions with "senior consumers" age 65 or older.

C. The revised model regulation can be found at NAIC Model Regulation Service II-275-1 (June 2006).

II. Approach of the Revised NAIC Regulation

A. The regulation establishes standards and procedures governing recommendations in annuity transactions, to ensure "that insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed."

B. The regulation imposes suitability and supervision duties for insurers and insurance producers, including requirements for maintaining written procedures and conducting periodic reviews of records to detect and prevent unsuitable sales practices.

III. Scope and Governing Framework

A. The regulation applies to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.

1. "Annuity" means a *fixed annuity or variable annuity* that is *individually solicited*, whether the product is classified as an individual or group annuity [Section 5 (A)].

2. "Recommendation" means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice [Section 5(D)].

B. The regulation does not apply to annuity transactions involving:

1. Direct response solicitations where there is no recommendation based on information collected from the consumer under the regulation;

2. Contracts funding specified retirement plans:

a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

b) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer;

c) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

3. Settlements of, or assumptions of, liabilities associated with personal injury litigation or any dispute or claim resolution process; or

4. Formal prepaid funeral contracts.

IV. Duties Imposed Under the Regulation [Section 6]

A. **Suitability Standard**: In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

1. "Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

2. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

3. Note: this suitability standard directly parallels the general standard of NASD Suitability Rule 2310(a), set forth at http://nasd.complinet.com/nasd/display/display.html?rbid=1189&element_id=1159000466 .

B. **Suitability Ingredients** [Section 6(A)]: Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning:

1. The consumer's financial status;

2. The consumer's tax status;

3. The consumer's investment objectives; and

4. Such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.

5. Note: the suitability ingredients above precisely track those in NASD Suitability Rule 2310(b) set forth at http://nasd.complinet.com/nasd/display/display.html?rbid=1189&element_id=1159000466 .

6. An insurer or insurance producer's recommendation under the suitability standard and ingredients must be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation [Section 6(c)(2)].

a) Neither an insurance producer, nor an insurer where no producer is involved, has any obligation to a consumer under the suitability standard [Section 6(a)] related to any recommendation if a consumer:

(1) Refuses to provide relevant information requested by the insurer or insurance producer;

(2) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer; or

(3) Fails to provide complete or accurate information.

(4) Note: these narrow exclusions directly parallel NASD approaches to suitability in Rule 2310.

C. **Supervision Standard**

1. For insurers:

a) An insurer either (i) shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with the suitability standards in the regulation is established and maintained, or (ii) shall establish and maintain such a system, including, but not limited to:

(1) Maintaining written procedures; and

(2) Conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this regulation.

b) To fulfill the supervision standard, an insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by Section 6(D)(1) regarding insurance producers under contract with, or employed by, the third party.

(1) To utilize a third party for supervision, an insurer must make reasonable inquiry to assure that the third party is performing the functions required under the regulation, and must take reasonable action under the circumstances to enforce the contractual obligation of the third party to perform the functions.

(2) An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

(a) Annually *obtain a certification* from a third party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; and

(b) Based on reasonable selection criteria, periodically select third parties for review to determine whether the third parties are performing the required functions. The insurer must perform those procedures to conduct the review that are reasonable under the circumstances.

c) Insurers that contract with a third party to perform supervision and that comply with the certification and periodic review procedures will fulfill their supervisory responsibilities under the regulation.

d) Note: the supervisory approaches implemented in the regulation parallel those in NASD Rule 3010(a).

e) No one may provide a certification under the regulations supervisory delegation unless:

(1) The person is a senior manager with responsibility for the delegated functions; and

(2) The person has a reasonable basis for making the certification

2. For insurance producers:

a) A general agent and independent agency either must (i) adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with the regulation, or (ii) establish and maintain such a system, including, but not limited to:

(1) Maintaining written procedures; and

(2) Conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this regulation.

3. Scope of required system of supervision for insurers and producers:

a) An insurer, general agent or independent agency is not required to review, or provide for review of, all insurance producer solicited transactions; or

b) An insurer, general agent or independent agency is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer, general agent or independent agency.

c) Note: these clarifications to the scope of the supervisory requirements parallel those applied under NASD Rule 3010.

4. Deference to NASD Suitability rule for variable annuity sales:

a) Compliance with the NASD's suitability rule will satisfy the regulation's suitability requirements for variable annuity recommendations.

b) Deference to NASD suitability standards and practices in variable annuity sales does not, however, limit the insurance commissioner's ability to enforce the regulation.

D. **Recordkeeping**

1. Insurers, general agents, independent agencies and insurance producers must maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for [a specified number of] years after the insurance transaction is completed by the insurer.

2. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

3. Records required to be maintained by this regulation may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

E. **Enforcement Powers and Mitigation Provisions**

1. To implement the regulation, the state insurance commissioner may order:

a) An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of this regulation;

b) An insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this regulation; and

2. Any applicable penalty under the state code may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered.

V. Observations on the Recently Revised NAIC Suitability in Annuity Transactions Model Regulation

A. The NAIC's 2006 modifications to, and substance of, the regulation directly address a number of public concerns about annuity regulation.

1. Applying the regulation to all ages provides coordinated suitability and supervision standards covering all individual annuity sales promotes state regulatory uniformity modeled on FINRA approaches to supervision and suitability.

2. FINRA advocated similar patterns of regulation for fixed and variable annuities under state and federal regulation in a number of public forums, including:

a) The May 5, 2006 Annuity Roundtable which is available by archived webcast at http://www.nasd.com/RulesRegulation/IssueCenter/VariableAnnuities/NASDW_016465 .

b) Statements of FINRA representatives:

(1) NASD believes that "rules governing the marketing and sale of annuity products - regardless of whether the particular annuity is regulated as an insurance product or a security - should be comparable.... In partnership with the Minnesota Department of Commerce, NASD is working with the Securities and Exchange Commission and state insurance and securities regulators t*o bring the rules governing annuity sales, in both the insurance and securities regulatory regimes, into conformity."* (emphasis added); Maxey, *American Equity CEO: Slower Indexed Sales Won't Hit Net*, Dow Jones Newswires October 13, 2006;

(2) Robert Glauber, former NASD Chairman and CEO stated:

(a) "Why should brokers have to follow one set of rules when they sell fixed annuities, another when they sell variable annuities and yet another when they sell equity-indexed annuities?" Speech by Robert Glauber, NASD Spring Securities Conference, May 19, 2006, available at http://www.nasd.com/PressRoom/SpeechesTestimony/RobertR.Glauber/NASDW_016648 .

(b) "Earlier this month, NASD and the Minnesota Department of Commerce hosted a public roundtable discussion in Washington on annuities - fixed, variable and equity-indexed - each of which falls under a different regulatory approach. The participants, who represented the securities and insurance industries and their state and federal regulators, agreed almost to a person that this was not a good state of affairs and that *simplification and harmonization of rules and regulatory approaches* covering these products was a goal we should all strive to achieve." (emphasis added). Speech of Robert Glauber, ICI Annual Meeting, May 18, 2006, available at http://www.nasd.com/PressRoom/SpeechesTestimony/RobertR.Glauber/NASDW_016642 .

(3) Mary Shapiro, NASD Chairman & CEO has stated:

(a) "Last, let me bring to your attention our efforts to *harmonize requirements across other financial products that compete with securities*. Variable annuity sales compete with equity-indexed and plain vanilla annuities. Variable annuities are securities, equity-indexed annuities may not be securities, yes the subject of another long and tortuous story, and plain vanilla annuities are not securities. These are *complex products in pricing, operation and structure* that may be purchased for similar purposes but are subject to *disparate levels of regulation and offer dissimilar levels of protection to investors*." SIA Compliance & Legal Division Annual Conference (March 20, 2006)(emphasis added). Available at http://www.nasd.com/PressRoom/SpeechesTestimony/MaryL.Schapiro/NASDW_016200 .

(b) "The [post-annuity roundtable] working group will consider the issues of disclosure, suitability, supervision and marketing of fixed, variable and equity-indexed annuities. *Regardless of which regulator has jurisdiction over these products, investors deserve as level a playing field as possible*. When product lines blur and regulators' reach is limited, we have an important responsibility to ensure that we work closely together to ensure the highest quality of investor protection." NASAA Annual Conference (September 18, 2006) (emphasis added). Available at http://www.nasd.com/PressRoom/SpeechesTestimony/MaryL.Schapiro/NASDW_017410

B. The life insurance industry has responded to the public observations and has acted to support and promote enactment of the revised NAIC Suitability in Annuity Transactions Model Regulation.

1. The American Council of Life Insurers (ACLI) endorsed the removal of the age 65 limitation in the scope of the NAIC Senior Protection in Annuity Transactions Model Regulation, and supports adoption of the NAIC Suitability in Annuity Transactions Model Regulation, and the NAIC Annuity Disclosure Model Regulation.

a) *See* ACLI Press Release, NAIC Senior Protection in Annuity Transactions Model Should Cover All Consumers, ACLI SAYS ((Jan. 24, 2006) [The decision to support extending standards results from ongoing ACLI efforts to identify areas where the state laws or regulations governing annuity sales can be enhanced, and reflects a strong desire by U.S. life insurers to enhance Americans' retirement security]; available at http://www.acli.com/ACLI/Newsroom/News%20Releases/Text%20Releases/NR06-004

2. ACLI also established a CEO Task Force to develop constructive solutions to promote meaningful disclosure about annuities and suitable sales practices in September 2005 that has coordinated with the NASD and the SEC about a number of responsive industry developments in these areas.

VI. Broad Impact Through IMSA Standards Implementation

A. On October 19, 2006 the Insurance Marketplace Standards Association (IMSA) announced its adoption of new suitability standards for annuities and long-term care insurance, which implement the NAIC Suitability in Annuity Transactions Model Regulation.

B. The IMSA standards are effective immediately with a compliance date of January 2, 2008.

1. Through IMSA's membership, the new suitability standards will have an impact on 60% of the insurance marketplace. In effect, the standards will apply to all IMSA members, even before individual states adopted the NAIC Suitability in Annuity Transactions Model Regulation.

C. See http://imsaethics.org/pdfs/R-newstandards10-19-06FINAL.pdf

SUITABILITY MONITORING STANDARDS

An Option for Demonstrating Compliance with the NAIC Suitability in Annuity Transactions Model Regulation

AMERICAN COUNCIL OF LIFE INSURERS

NATIONAL ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS

NAVA, INC.

2008

BACKGROUND

The NAIC Suitability in Annuity Transactions Model Regulation imposes supervision requirements on life insurers (Insurers), and allows insurers to delegate supervision to third parties (Third Parties) at Section 6(D)(3) under a variety of conditions, including monitoring Third Parties' performance. This document contains categories of data and lists of information that Insurers can use in fulfilling this monitoring role through collection and dissemination of trend data. These information categories parallel other industry developments to promote uniformity.

The Suitability Monitoring Standards provide a nonexclusive means to demonstrate compliance with the supervisory requirements in Section 6 of the NAIC Suitability in Annuity Transactions Model Regulation. Insurers electing to utilize the Suitability Monitoring Standards for this purpose should fulfill all the elements set forth in the standards that are germane to the Insurer's product line, distribution channels, and distributors. While the Suitability Monitoring Standards facilitate a uniform approach to satisfying the supervisory requirements in Section 6 of the NAIC Suitability in Annuity Transactions Model Regulation, they are not the only means to demonstrate compliance. Insurers may also demonstrate compliance with the supervisory requirements in Section 6 of the NAIC Suitability in Annuity Transactions Model Regulation through other means and approaches reasonably designed to achieve compliance with the regulation.

EXPECTATIONS FOR INSURERS DELEGATING SUPERVISION TO THIRD PARTIES

Insurers shall use as appropriate for their products, distribution channels, and distributors the information outlined below on a quarterly or more frequent basis for purposes of monitoring Third Parties' compliance with the NAIC Suitability in Annuity Transaction Regulation. The informational categories, where applicable, apply to fixed, index, and variable annuities. Changes in the marketplace may warrant changes to the categories.

Insurers will highlight transactions that appear to be outside of the anticipated normal range for any category for Third Parties. Insurers may make reasonable inquiry of Third Parties to explain activities outside of the anticipated normal range and may elect to exclude *de minimis* results for informational categories. Insurers shall maintain copies of the statistical information reports.

EXPECTATIONS FOR THIRD PARTIES PERFORMING SUPERVISION BY DELEGATION FROM INSURERS

Third Parties shall adopt and implement written policies and procedures with respect to the compliance reports provided by Insurers. Third Parties shall provide Insurer with whom it has a sales and/or distribution agreement, upon request, copies of its policies and procedures with respect to the categories of information provided by the Insurer. Third Parties shall make a representation to the Insurer stating that it has in place appropriate policies and procedures with respect to the categories of information provided by Insurer, and that it has a reasonable basis to believe that it is in compliance with its policies and procedures.

Once an Insurer's data identifies activities outside the anticipated normal range for the product type, the Third Party should examine the identified activities to determine if they met the suitability standards. If a reasonable basis for the deviation cannot be ascertained, then the Third Party should commit to initiating corrective action to address the deviation, which may be monitored by the Third Party, and the Insurer may elect to preclude the producer and/or Third Party from selling the Insurer's products. The Third Party should report the results of its examination and any associated remedial practices to the Insurer within a set time period set by the Insurer. Insurers could include an obligation to support follow-up and remedial practices in sales and/or distribution agreements with sales organizations.

Third Parties shall respond to any inquiry from the Insurer regarding questions raised by the Insurer's informational reports within a reasonable time period after receipt of the request. Upon request, the Third Party will provide its response in writing.

CATEGORIES OF COMPARATIVE DATA FOR COMPILATION

- Average age of new sales by distributor as compared with other distributors selling the same or similar products, including aggregate new sales and number of contracts with owners above specified ages, such as 65, 70, 75, 80, and 80+.
- Purchases over stated ages, broken down by type of contract, benefits selected, and producer.
- New sales by aggregate premium and by number of new contracts for each product type sold by the distributor, and showing sales as compared with other distributors selling the same or similar products.
- Percentage of new business (based on premium) for each product type for the distributor.
- Number of new contracts sold by producer, broken down by product type and showing sales as compared with other producers selling the same or similar products.
- Aggregate new premiums, broken down by product type, and further broken down by producer and sales compared with other producers selling the same or similar products.
- Benefit election by percentage of new business by distributor as compared with other distributors selling the same or similar products.
- Benefit election for each producer as compared with other producers selling the same or similar products.
- Replacement percentage for new contracts placed with the Insurer based on number of contracts and aggregate premiums for the distributor, as compared with other distributors selling the same or similar products. (Replacements include internal replacements but do not include surrendered contracts.)
- Percentage of new contracts considered to be a replacement, broken down by contract and premium, for a producer.
- Percentage of new contracts replaced as compared with other distributors, and including destination Insurer for each replaced contract to the extent the information is readily available.
- Percentage of surrenders and death claims (each shown separately) based on amounts surrendered vs. total assets by distributor, as compared to other distributors selling the same or similar products.
- Percentage of surrenders and death claims based on number of contracts vs. total number of outstanding contracts sold by the distributor and still in effect at the beginning of the period, as compared to other distributors selling the same or similar products.
- Percentage of surrenders and death claims based on amount surrendered vs. total assets sold by a producer for surrenders within a stated period (e.g. 3 years), as compared to other producers selling the same or similar products.
- Current sub-account allocation percentages broken down by producer.
- Number of contracts exchanged within 36 months of original issuance of contract, by producer and by distributor.
- Number of replacements with large surrender charges, if information is available from original issuer, by producer and by distributor.
- Number of replacements where surrender charges exceed bonus and other benefits received, if information is available from original issuer, by producer and by distributor.
- Number of "charge backs," defined as contingent deferred sales charges and bonus recapture, but not commissions, by producer.

LISTS FOR COMPILATION

- All new contracts considered to be a replacement, for each distributor.
- All sales made on a tax qualified basis.
- New sales broken down by benefit election.
- All surrendered contracts and death claims for the period, broken down by producer.
- All aggregate amounts for the firm for which the free look was exercised, as compared with other distributors selling the same or similar products.
- All contracts for which the free look was exercised, showing amounts surrendered, broken down by producer.
- Current sub-account percentages for all variable annuity contracts for the distributor, as compared to other distributors selling the same or similar products.
- Current sub-account allocations for all variable annuity contracts, broken down by producer.
- All subsequent or additional premiums by contract broken down by producer.

ACLI
Financial Security. For Life.

The American Council of Life Insurers is a Washington, D.C.-based trade association, whose 353 members account for 93 percent of the life insurance industry's total assets in the United States. ACLI member companies offer life insurance; annuities; pensions, including 401(k) plans; long-term care insurance; disability income insurance; reinsurance; and other retirement products.

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Washington, DC 20001–2133
www.acli.com

NAIFA

The National Association of Insurance and Financial Advisors comprises nearly 800 state and local associations representing 60,000 members nationwide. Members focus on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

2901 Telestar Court, PO Box 12012
Falls Church, VA 22042–1205
www.naifa.org

NAVA

NAVA, Inc., the association for insured retirement solutions, is a non-profit trade association located in suburban Washington, D.C. NAVA provides a variety of services to the industry including educational forums, research, and conferences aimed at furthering the development and understanding of fixed and variable annuities, income annuities, and variable life insurance.

11710 Plaza America Drive, Suite 100
Reston, VA 20910 **www.navanet.org**

Issue Status Chart:
NAIC Annuity Disclosure & Suitability in Annuity Transactions Model Regulations

(As of **July 22, 2008**)

The chart tracks state adoption of the NAIC Suitability (formerly Senior Protection) in Annuity Transactions Model Regulation, the NAIC Annuity Disclosure Model Regulation and variations of the models. ACLI actively supports state adoption on a uniform basis of the NAIC Suitability in Annuity Transactions Model Regulation and the NAIC Annuity Disclosure Model Regulation.

OVERVIEW OF STATE ACTIVITY TO DATE:

28 states have adopted the NAIC Suitability in Annuity Transactions Model Regulation. (AL, AK, AZ, CO, GA, HI, IL, ID, KS, KY, LA, MA, MD, ME, MI, MT, NC, ND, NV, OH, OK, RI, SD, TX, UT, VA, WV, WI); IN, IA are enabling legislation.

6 states have proposed the NAIC Suitability in Annuity Transactions Model Regulation. (ID, IN, NE, SC, TN, PA)

9 states have adopted the NAIC Senior Protection in Annuity Transactions Model Regulation. (AZ, AR, CT, DE, FL, ID, IN, NE, WI)
1 state has proposed the NAIC Senior Protection in Annuity Transactions Model Regulation. (CA)
7 states have separate suitability standards that are not based on the NAIC Model Regulation. (CT, IA, MN, MO, ND, OR, WV)

16 states have adopted the NAIC Annuity Disclosure Model Regulation. (AL, AK, AZ, CO, HI, IA, KY, ME, MO, MT, NM, NV, NC, OH, OK,UT)
9 states have adopted variations of an older NAIC Model Regulation. (FL, GA, MD, NH, NY, PA, SC, WA, WI)

(Updates in **bold**. Shading indicates activity from previous years that is no longer pending.)

Legislative or Regulatory Citation	Suitability Model	Annuity Disclosure Model	Other	Status	Comments
ALABAMA					
Admin. Code ch. 482-1-129		X		Adopted 2004.	
Ch. 482-1-129.05		X		Adopted 2006.	Similar to the NAIC Annuity Disclosure Model.
Ch. 482-1-137	X			Adopted 2006.	Similar to the NAIC Suitability Model.
ALASKA					
Overview of recent adopted regulations					**The Insurance Division adopted permanent regulations relating to annuity disclosure, suitability, and replacements, as previously posted to the ACLI Web site on July 2. ACLI staff has made separate comparisons between the adopted rules and the NAIC Annuity Contract Disclosure Model Regulation, the NAIC Life Insurance Policy and Annuity Contract Replacements Model Regulation, and the NAIC Suitability in Annuity Contract Transactions Model Regulation for your**

Legislative or Regulatory Citation	Suitability Model	Annuity Disclosure Model	Other	Status	Comments
					review and information. Noted deviations between the adopted regulations and the NAIC Models are: Suitability: No corresponding "purpose" section or "mitigation of responsibility" section in the adopted rule; Annuity Disclosure: No corresponding sections relating to "purpose", "penalties", and "severability" in the adopted rules; Replacement: No corresponding sections relating to "purpose", "violations/penalties", and "severability" in the adopted rules. As per Director Linda Hall's comments at the August 28, 2007 public hearing, it was the Division's intent to conform their rules with the respective NAIC Models, and drafting changes were made between the versions of the proposed and adopted rules based on comments and testimony provided by ACLI and member companies. ACLI staff has received a number of calls and e-mails regarding the July 25 effective date, which is noted at the end of each section of the adopted rules. The Alaska Administrative Procedures Act provides that regulations become effective 30 days after filing by the Lieutenant Governor, and the adopted regulations are published quarterly in the Alaska Administrative Register. There may still be unintended drafting errors in these adopted rules that may cause compliance concerns, and ACLI staff urges companies to advise us of any problematic language in the adopted rules that differs from the NAIC Models and that may require clarification from the Division for compliance purposes. Given past experience with Alaska rule adoption, the Division has not deviated from the effective date but has offered clarification with respect to ensuring compliance with the rules.
Proposed Regulation 3 AAC 26.750+ **Adopted Regulation 3 AAC 26.750+**		X		Introduced: 7/19/07 Hearing: 8/28/07; 1 p.m. Comments: 9/14/07 **Effective July 25, 2008**	The proposed new regulation is based somewhat on the NAIC Annuity Disclosure Model Regulation (excluding the free look provision and the penalties and separability sections, but adopting by reference the NAIC Buyer's Guide) and would add to the chapter on trade practices a section on suitability in annuity contract transactions, including the necessary duties of insurers and insurance producers and record retention requirements. Comments commending Division of Insurance for proposing rules that would adopt NAIC models relating to Annuity Disclosure, Suitability and Replacement, while requesting changes be made to conform to the models. **On July 21, ACLI requested written clarification from the Insurance Division on certain aspects of the newly adopted**

Legislative or Regulatory Citation	Suitability Model	Annuity Disclosure Model	Other	Status	Comments
					Alaska Suitability in Annuity Transactions and Replacement of Life Insurance Policies and Annuity Contracts rules. Our written request for clarification was based on comments and inquiries received from member companies.
Proposed Regulation 3 AAC 26.770+ **Adopted Regulation 3 AAC 26.770+**	X			Introduced: 7/19/07 Hearing: 8/28/07; 1 p.m. Comments: 9/14/07 **Effective July 25, 2008**	The proposed new regulation is based somewhat on the NAIC Suitability in Annuity Transactions Model (not including the definitions or the mitigation of responsibility sections) and would add to the chapter on trade practices a section on suitability in annuity contract transactions, including the necessary duties of insurers and insurance producers and record retention requirements. Comments commending Division of Insurance for proposing rules that would adopt NAIC models relating to Annuity Disclosure, Suitability and Replacement, while requesting changes be made to conform to the models. **Summary: Amendments to the chapter on trade practices adds a regulation on suitability in annuity contract transactions. Deviates from the NAIC model, with no sections on "purpose" or "mitigation of responsibility" included. The new regulation includes the duties of an insurance producer and an insurer, record retention requirements and definitions of some of the terms used in the regulation.**
ARKANSAS					
Rule 82	X			Adopted 2004	Applies to consumers over 65. Also see Directive 2-2006.
ARIZONA					
Rev. Stat. Ann. §§ 20-1243+	X			Enacted 2006. (HB 2162)	Similar to the NAIC Suitability Model.
Rev. Stat. Ann. §§ 20-1242+		X		Enacted 2003.	
Admin. Comp. R20-6-215.01		X		Adopted 2004.	
CALIFORNIA					
A. 267	X			Introduced 2/5/07. 2/2/08 - From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.	Similar to the NAIC Senior Protection Model. Would deviate from the Model by requiring insurers to report annually to the commissioner (1) the total number of applications for annuities received from the residents of the state; (2) the age of the applicants; and (3) the total number of applications for annuities rejected and the general reasons

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					for the rejection.
A. 2464		X		In Assembly. Read second time and amended. Re-referred to Committee on Insurance 4/3/08. **Passed the Assembly 5/22/08. Referred to Banking, Finance, and Insurance and Judiciary Committees.**	At the request of ACLI and ACLHIC, Assembly member Mike Duvall (R) has introduced AB 2464, which expresses the legislature's intent to adopt the NAIC Annuity Disclosure model law. On June 18, AB 2464, which would adopt the NAIC model annuity disclosure law, will be heard by the Senate Insurance Committee. The Assembly approved the bill on a 60-1 vote. However, the Department of Insurance has just released a host of concerns with the bill, which also faces concerns from the trial bar, several senior groups and committee member Sen. Jack Scott.
S. 573	X			Introduced 2/5/07; amended 3/29/07; amended 4/24/07. Passed Senate 5/21/07. Sent to Assembly Insurance Committee 5/31/07. Read second time, amended and re-referred to Insurance Committee 7/2/07. Sent to Interim Study 7/3/07.	Would adopt the NAIC Senior Protection in Annuity Transactions Model Regulation in substance. Would deviate from the Model by requiring insurers to report annually to the commissioner (1) the total number of applications for annuities received from the residents of the state; (2) the age of the applicants; and (3) the total number of applications for annuities rejected and the general reasons for the rejection. As amended, would require an insurer to offer to rescind the annuity contract if it is informed by a regulatory agency that it was recommended without reasonable grounds. Applies to persons 65 years old or older. Joint letter expressing *oppose unless amended* position to S. 573. Significant concerns are in the proposed areas governing approval and issuance of policies and suitability forms, application of remedies, and record retention/reporting requirements.
Proposed Suitability Regs.	X				Commissioner Poizner has agreed to meet on May 6 in Sacramento with members of the ACLI's CEO Task Force on Annuities. The purpose of the meeting will be to discuss the CDI's proposed rules regarding suitability of annuity sales to seniors.
COLORADO					
Reg. 4-1-12		X		Re-proposed Sept. 2006. Adopted December 2006. Effective 1/1/07.	Offers criteria for the discl. of specified data about annuity contracts to make certain that purchasers comprehend essential aspects of the contracts. Re-proposed to change sections including requiring a free look period of at least 15 days at or prior to the time of application in the absence of a Buyer's Guide and a discl. document and having the reg. apply to contracts sold on or after 1/1/07, the same day the amended reg. becomes effective.
Reg. 4-1-11	X			Adopted 2004. Revised	Similar to the NAIC Suitability Model.

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				2006.	
CONNECTICUT					
S. 155			X	Introduced and sent to Joint Select Committee on Aging 2/14/08. Failed joint favorable deadline on 3/6/08. Bill is dead.	Would prohibit the sale of variable annuities to persons 65 years of age or older. ACLI and the local industry will oppose its passage. No hearing yet scheduled.
Section 38a-432a-1 to 7	X				6/3: The Insurance Department has just published a new proposed regulation to revise their existing regulation on suitability in annuity transactions by removing its application to only to persons aged 65 or older. It is intended to follow the NAIC Model Regulation.
Act 05-57	X*			Enacted 2005. (SB 6622)	*Enabling legislation authorizing the Insurance Commissioner to adopt regulations to establish (1) standards for the sale or exchange of annuities to sr. consumers and (2) procedures for making recommendations to sr. consumers regarding the sale or exchange of an annuity.
Reg. 38a-819-70+	X			Adopted 2005.	Similar to the NAIC Senior Protection Model.
DELAWARE					
Reg. 1214	X			Adopted 2005.	Similar to the NAIC Senior Protection Model.
DISTRICT OF COLUMBIA					
					No activity to date.
FLORIDA					
H. 1003 S. 2082			X	Died on calendar. S. 2082: Introduced 3/6/08. Referred to Senate Banking and Insurance Committee 3/6/08. Amendment adopted on Senate Floor 4/2/08. Passed the Senate 4/3/08. Returned to the Senate; amendments adopted on Senate Floor; Passed the Senate on 5/2/08. Passed the House on 5/2/08; sent	Legislation concerning sale of annuity products to seniors prefiled on 2/20/08. ACLI to meet with sponsors to express concerns and explain current protections already in place. It is unlikely that Sen. Bennett has spoken to OIR senior staff about his constituent issue or the proposed legislation, in which case, he is also probably unaware of Florida's statutory adoption of the NAIC Suitability of Annuity Transactions (for age 65 and older) in 2005. ACLI and local counsel will be visiting Sen. Bennett and Rep. Ford as soon as possible to express our concerns and explain current protections for seniors already in Florida law. S.2082 - On May 2, the Florida Legislature gave final passage to S. 2082, related to Annuity Suitability. On May 1, S. 2082 was recalled to the Senate from House Messages. The Senate took up S. 2082

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				to enrollment. Sent to governor 6/19/08.	and adopted a strike-all amendment similar to H. 1003 as passed by the House Jobs & Entrepreneurship Council. The bill was then sent back to the House for concurrence. The House concurred and the bill received final passage. The bill in its final form eliminates all references to life insurance; includes all the amendments previously adopted in the prior Senate committee hearing and floor amendment process, including FINRA suitability safe harbor; modifications to maintenance of forms and record keeping requirements; includes a provision holding insurers harmless for the acts of unaffiliated producers; reduces criminal penalties from felony to misdemeanor of the first degree and limited to twisting/churning committed with fraudulent intent; and includes an amendment that was omitted from separate insurable interest legislation that would facilitate group COLI.
Stat. § 626.99			X	Enacted 1982 and 1991.	Requires delivery of Annuity Disclosure Model Buyer's Guide.
Stat. § 627.4554	X			Enacted 2004. (SB 2994)	Applies to consumers over 65.
GEORGIA					
Admin. Comp. ch. 120-2-73			X	Enacted 1996.	Variation of the NAIC Annuity Disclosure Model.
Rule Ch. 120-2-94	X			Adopted 2006.	Similar to the NAIC Suitability Model.
HAWAII					
H. 273	X			Failed to pass.	Similar to the NAIC Suitability Model. Deletes "private right cause of action" language. Similar to S. 1008. As amended, adds section referencing Securities law to specify that the Securities Comm. maintains jurisdiction over variable annuities.
S. 1008	X			Signed by governor 7/5/07. Effective 1/1/08.	Enacts the NAIC's Suitability in Annuity Transaction Model Regulation. Amends "general agent" to read "managing general agent". Specifies applicability to an insurer, general agent, independent agencies, or a producer in terms of the penalty being reduced or eliminated for corrective action of a violation. Adds "failure to obtain information" as definition of unfair methods of competition and unfair or deceptive acts or practices. Provides that nothing in this Act shall be construed to supersede in any manner any provision of the Uniform Securities Act and nothing shall affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the act's effective date.
Stat. § 431:10D		X		Enacted 2006 (SB 2434)	Similar to the NAIC Annuity Disclosure Model.

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IDAHO					
H. 411	X			Signed by Governor on 3/19/08. Effective 7/1/08.	Would amend section 41-1940 of Idaho's suitability law to make it consistent with the latest version of the NAIC model by extending suitability protections to annuity purchasers of all ages. The Senate Commerce Committee has approved HB 411, which extends Idaho's current annuity suitability law to consumers of all ages. The bill now goes to the floor. The state had previously adopted the NAIC senior protections in annuity transactions model law.
Stat. § 41-1940	X			Enacted 2005. (HB 117)	From the NAIC Senior Protection Model, contains Section 6A-C "Duties of Insurers and Insurance Producers." Language deviates from the NAIC model in section addressing exempted contracts. Excludes Sect. 6D, system of supervision, and Sect. 6E, compliance with NASD conduct rules. Applies to consumers over 65.
Rule IDAPA 18.01.09	X			Adopted 2006.	Similar to the NAIC Senior Protection Model Reg.
ILLINOIS					
Reg. 3120+	X			Comments by: 4/16/07. Adopted 2007 Effective 01/01/08	Closely follows the NAIC Model Regulation for Suitability in Annuity Transactions.
INDIANA					
IC 27-4-9	X*			Enacted 2005. (SB 634)	*Enabling legislation authorizing the Insurance Commissioner to adopt the Senior Protection Model.
Reg. 760 IAC 1-72	X			Adopted 2006	Similar to the NAIC Senior Protection Model.
S. 171	X*			Signed by the governor 5/3/07. Effective 01/01/08.	*Enabling legislation for Dept. to promulgate the NAIC Suitability Model.
Anticipated regulation	X	X			The Department of Insurance has filed a notice of intent for regulations for both the Disclosure Model and the NAIC Annuity Suitability Model.
IOWA					
Admin. Code §§ 191-15.61 to 191-15.67		X		Adopted 2003.	

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Admin. Code §§ 191-15.8			X		General suitability standards not based on NAIC Senior Protection Model. Reg. 191-15.68+[507B] (below) amended § 191-15.8 to remove references to annuities.
I.C.A. § 507B.4B	X*			Enacted 2006. (SB 2364)	Omnibus bill. Enabling legislation for Dept. to promulgate the NAIC Suitability Model. Would prohibit recommending the purchase, sale, or exchange of any life insurance policy or annuity, or any rider, endorsement, or amendment unless the person has reasonable grounds to believe that the recommendation is suitable. Applies to all ages.
Reg. 191-15.68+[507B]	X			Adopted 2006.	Similar to the NAIC Suitability Model
KANSAS					
Reg. 40-2-14 a	X			Adopted 2005.	Similar to the NAIC Suitability Model.
KENTUCKY					
Reg. 806 KAR 12:120	X			Adopted 2007 Effective 1/1/08	Similar to the NAIC Suitability Model.
Reg. 806 KAR 12:150		X		Adopted 2007 Effective 1/1/08	This new version was amended to incorporate comments received after hearings were held on June 26 with comments requested by July 6.
LOUISIANA					
Reg. 89	X			Adopted 2006. Effective 1/1/07.	Similar to the NAIC Suitability Model. ACLI has confirmed with the DOI that the prop/ reg. will be published in final form on 12/20/06 with an effective date of 1/1/07. No changes were made from the original version. Applies to all ages.
MAINE					
Ins. Reg. ch. 915		X		Adopted 2004.	
Rule 917	X			Adopted 2007. Effective 7/1/2007.	NAIC Senior Protection Model with deviations regarding age. ACLI submitted comments on 2/3/06. Applied to consumers over 60. Re-proposed with a removal of the age limitations, the deletion of Section 6(C)(1)(c) and a change to a provision concerning compliance with NASD suitability rules for variable annuities, by

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					stating that those rules have to be at least as protective of the consumer's interests as this one. ACLI submitted comments on 11/2/06 regarding 2 deviations from the model. At ACLI's request they modified the regulation to be consistent with changes recently approved by the NAIC.
MARYLAND					
Admin. Code §§ 31.15.04.01 to 31.15.04.07			X	Adopted 1980.	Variation of the NAIC Annuity Disclosure Model.
Reg. 31.09.12.01+	X			Adopted 2007. Effective 7/1/07.	Similar to the NAIC Suitability Model. ACLI submitted comments on 2/1/07. Sec. 6 of the adopted reg. has been amended slightly (from the proposed reg.) to reflect that compliance with the NASD Conduct Rules satisfies compliance with the regulation.
MASSACHUSETTS					
Reg. 211 CMR 96	X			Adopted 2006.	Similar to the NAIC Suitability Model. Also see DOI Bulletin 2006-08.
MICHIGAN					
M.C.L.A. 500.4151+	X			Enacted 2006. (SB 880)	Similar to the NAIC Suitability Model.
MINNESOTA					
Stat. § 72A.20			X	Enacted 1995.	Regulation of Trade Practices- Annuity Solicitation Standards.
Stat. § 60k.46			X	Enacted 2002.	Insurance Producers- Annuity Solicitation Standards.
MISSISSIPPI					
					NAIC Suitability Model under consideration.
MISSOURI					
Rule 20 CSR 700-1.146			X		The proposed amendments to the regulation would add sections on fixed, indexed, other covered and all deferred annuities, and add to the necessary information that should be obtained by producers prior to the execution of variable life or variable annuity transactions so that professional standards of conduct could ascertain appropriate recommendation of annuities and variable life insurance contracts. Hearing date: February 7, 2008, 10 a.m. Comments date: February 7, 2008. Comments expressing objection to proposed suitability amendments,

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					and requesting the Department amend Regulation 20 CSR 700-1.146 so that it is consistent with the NAIC Suitability in Annuity Transactions Model Regulation (NAIC Model).
Rule 20 CSR 700-1.147			X		The amendments to the regulation on supervision in the sale of variable products would delete references to the National Association of Securities Dealers (NASD) replacing them with Financial Industry Regulatory Authority (FINRA). Hearing date: February 7, 2008, 10 a.m. Comments date: February 7, 2008.
Rule 20 CSR 700-1.148			X		This proposed regulation would establish standards of conduct in regard to the expression of ineptitude, unreliability or financial capriciousness by producers in the proffering, selling or substitution of annuity products. Hearing date: February 7, 2008, 10 a.m. Comments date: February 7, 2008.
Rule 20 CSR 400-5.410		X		Adopted 2007. Effective 1/30/07.	Similar to the NAIC Disclosure Model.
Rule 20 CSR 700- 1.146			X	Adopted 2006.	Provides grounds for discipline or disqualification of producers. Require producers to have reasonable grounds for believing that the recommendation is suitable and a reasonable effort to obtain certain information.
Rule 20 CSR 700- 1.147			X	Adopted 2006.	Specifically addresses licensing of insurance producers, who sell variable life and variable annuity products, including written procedures, internal inspections, and review of transactions and correspondence.
MONTANA					
Admin. R. 6.6.801- 6.6.806		X		Adopted 1998 and 1999.	
S. 535	X	X		Signed by the governor on 5/8/07. Effective 10/1/07.	Similar to the NAIC Disclosure and Suitability Models, however excludes variable annuities products.
NEBRASKA					
Rev. St. § 44-8101 to 44-8107	X			Enacted 2006. (L. 875)	Similar to the NAIC Senior Protection Model.
L. 117					Extends the provisions of the Senior Protection in Annuity Transactions Act to all annuities and renames the act accordingly.

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L. 120	X			Indefinitely postponed 5/31/07.	NAIC Suitability Model. ACLI testified on 1/22/07. ACLI's suggested amendments deleting 2 non-Model provisions which would require ins. producers to inquire about a customer's ownership of other ins. products & other investments. The bill is expected to be combined other bills creating an omnibus bill.
NEVADA					
Ch. 688A+	X	X	X	Adopted 2005. Re-proposed and adopted in 2006.	Variation of the NAIC Annuity Disclosure Model, NAIC Suitability Model, NAIC Life Insurance Disclosure Model and NAIC Life Insurance Illustration Model. Also see Bulletin No. 06-004.
NEW HAMPSHIRE					
Admin. Code Ins. 306.02 to 306.9			X	Adopted 1983 and 2001.	Variation of the NAIC Annuity Disclosure Model.
Admin. Code Ins. 301.06(1)			X		Commissioner Sevigny has published a Bulletin (07-47-AB) that outlines the Department's position on suitability standard to both life insurance and annuities. ACLI has commented to the Commissioner of Insurance on his recent suitability Bulletin 07-047-AB, expressing its deep concerns with the new compliance requirements for insurers set forth in the Bulletin.
					NAIC Suitability Model under consideration.
NEW JERSEY					
Rev. Stat. § 17B:25-20			X	Enacted 1981 and 2005.	Limits maturity dates & surrender charges for annuities sold to seniors.
S. 1165			X	Introduced and sent to Senate Commerce Committee on 2/14/08.	The bill concerns annuity suitability and disclosure. SB 1165 is on the schedule for a Monday, June 9 – 1:00pm Committee Hearing.
NEW MEXICO					
13 N.M. Admin. Code §§ 9.12.1 to 9.12.13		X		Adopted 1997 and 2000.	
NEW YORK					
Admin. Code tit. 11 §§ 40.0 to 40.6 (Reg. 139)			X	Adopted 1990, 1997 and 2003.	Variation of the NAIC Annuity Disclosure Model addressing group annuity contracts and funding agreements.

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(1990) §§ 53-1.1 to 53-1.6 (Reg. 74)					
A. 10002			X	Introduced and sent to Assembly Insurance Committee 2/20/08.	Same as S. 7005 Would establish new disclosures (impact of annuity purchase on Medicaid eligibility; advisor commissions), suitability testing, and a 30-60 day "cooling off period" on annuities sold to senior citizens age 70 or above.
S. 7005			X	Introduced and sent to Senate Aging Committee on 4/15/08. Amended 6/16/08.	Same as A. 10002 Would provide for senior protection in purchase of annuities. Would place restrictions on advisors selling to seniors. As amended on June 16, 2008 would provide for misrepresentation or intentionally misinforming an applicant for individual annuity products.
NORTH CAROLINA					
Admin. Code tit. 11 ch. 12 § .0420			X	Adopted 1976 and 1992.	Requires submission of suitability form.
Gen. Statutes §58-60+		X		Enacted 2005. (HB 655)	Omnibus bill including NAIC Annuity Disclosure model language.
S. 736	X			Introduced 3/14/07; measure carried over.	Similar to the NAIC Suitability Model and H. 731.
H. 731	X			Signed by the governor 7/28/07. Effective 1/1/08.	Among other things, enacts the "Suitability in Annuity Transactions Act" and is similar to the NAIC Suitability in Annuity Transactions Model Regulation. Deviations from the NAIC Model include sections relating to a requirement for an application for annuities and surrender fees on death benefits. Amends Article 58 of Chapter 58 of the Statutes relating to the portability of group life insurance. Defines "portability" to mean "the prerogative to continue existing group life insurance coverage, or access alternate group life insurance coverage, that may be provided by a group life insurance policy to an individual insured after the individual's affiliation with the initial group terminates." Provides for the applicability of certificates and prohibitions for portability of group life insurance. Section 7.6, also strikes by reference law that required groups must contain 10 or more lives to qualify for a group life insurance product. The Suitability in Annuity Transactions Act becomes effective January 1, 2008 and applies to violations occurring on or after that date.
NORTH DAKOTA					
S. 2155	X			Signed by the governor	Similar to the NAIC Suitability Model. There is a deviation in the

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				4/12/07. Effective 8/1/07.	Mitigation of Responsibility section. It appears to be a drafting error and is expected be corrected before the hearing. Passed Senate unanimously with an amendment correcting the deviation in the section mentioned above.
Admin. Code § 45-02-02-14			X	Adopted 1984 and 2001.	Rules cover recommendations to consumers over 65.
OHIO					
Reg. 3901-6-14		X		Adopted 2007. Effective 3/1/07.	Similar to the NAIC Annuity Disclosure Model.
Reg. 3901-6-13	X			Adopted 2007. Effective 3/1/07.	Similar to the NAIC Suitability Model.
OKLAHOMA					
Rule 365:25-17	X			Adopted 2006.	Similar to the NAIC Suitability Model.
Rule 365:27-19-1		X		Adopted 2006.	Similar to the NAIC Annuity Disclosure Model.
OREGON					
OAR 836-080-0090			X	Adopted 2004.	General suitability standards not based on NAIC Senior Protection Model.
Anticipated regulation		X			The Insurance Division has started a rulemaking process to adopt the Annuity Disclosure Model by rule. A rulemaking advisory committee meeting will be held 5/5.
PENNSYLVANIA					
Admin. Code tit. 31 §§ 85.38 to 85.39			X	Adopted 1978.	Variation of the NAIC Annuity Disclosure Model addressing variable annuity and variable accumulation annuity contracts.
S. 1307	X			Introduced and referred to Senate Banking and Insurance Committee 3/13/08.	Would provide for suitability of annuity transactions.
RHODE ISLAND					
Reg. 12	X			Adopted 2006.	Similar to the NAIC Suitability Model.

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SOUTH CAROLINA					
Ins. Reg. 69-39			X	Adopted 1986.	Older version of the NAIC Annuity Disclosure Model.
S. 456	X			Introduced 2/20/07; passed Senate & sent to House 4/4/07; measured carried over.	Similar to the NAIC Suitability Model. Deviations are primarily editorial, but there are some substantive changes. ACLI submitted comments 3/12/07. ACLI & counsel followed up with B&I staff on 3/13 and based on information ACLI's requested changes will either be amended onto the bill in cmte or later when the bill comes to the floor for final consideration.
SOUTH DAKOTA					
S. 37	X			Signed by governor 3/11/08.; Effective 7/1/08.	Establishes suitability requirements for annuities. This law is a legislative enactment of the NAIC Model Annuity Suitability Regulation.
TENNESSEE					
Prop. Rule Ch. 0780-01-86	X			Hearing 3/20/07.	Similar to the NAIC Suitability Model.
TEXAS					
S. 1685	X			Failed to pass.	Similar to the NAIC Suitability Model. (Same as H. 2761.)
H. 2761	X			Signed by the governor on 6/15/07. Effective 9/1/07.	Substantively adopts the NAIC Suitability of Annuity Transactions Model Regulation.
UTAH					
R590-230	X			Adopted 2006.	Similar to the NAIC Suitability Model.
R590-229-1		X		Adopted 2004.	
VERMONT					
					NAIC Suitability Model under consideration.
VIRGINIA					
14 VAC 5-30-10+			X	Adopted 2006. Effective 4/1/07	Life Insurance and Annuity Replacements
Rule Ch. 45	X			Adopted 2006. Effective 4/1/07.	Closely follows the NAIC Suitability Model with the exception of the Mitigation of Responsibility section.

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WASHINGTON					
Admin. Code R. §§ 284-23-300 to 284-23-380			X	Adopted 1980.	Older version of the NAIC Annuity Disclosure Model.
WEST VIRGINIA					
Code of State Rules § 114-11-6(g)			X	Adopted 1974.	General suitability standard not based on the NAIC Suitability Model.
Proposed Reg. 114-11B-1+ **Adopted Reg. 114-11B-1+**	X			Comments date: 7/2/07 No hearing date provided. **Effective August 1, 2008**	The proposed new regulation on annuity suitability, an adaptation of the NAIC model, would establish for dealings concerning annuity products criteria and measures meeting consumer insurance needs and financial objectives at the time of the transaction. Regulation adopted by WV S 417 on 3/16/08. **Summary: This new rule, based on the NAIC model, establishes requirements for insurers and insurance producers in determining the financial suitability of annuity products prior to recommending a product to consumers. Includes record retention requirements.**
WISCONSIN					
Admin. Code § INS. 2.15			X	Adopted 1982 & 1989.	Variation of NAIC Annuity Disclosure Model.
Stat. § 628.347	X			Enacted 2004.	Applies to consumers over 65. (SB 320)
Annuity Sales Supervision Advisory Committee					Office of the Commissioner of Insurance (OCI) has announced the 2008 schedule of the Annuity Sales Supervision Advisory Committee. The Committee, which will meet on January 22, April 22, July 22, and October 21, is in the process of reviewing the annuity marketplace including the regulatory structure of equity markets, in regards to sales practices along with the supervision of suitability standards for annuity producers.
A. 542	X				Would enact the NAIC Interstate Insurance Product Regulation Compact with slight deviations. Would amend the suitability of annuity sales statutes to make them apply to consumers of all ages, not just to a person 65 or older. This would make the statute consistent with the NAIC Suitability in Annuity Transactions Model Regulation. Would provide that, with a number of specified exceptions, a form first used on or after the effective date of the provision that has not already been filed by that date may be used without approval by the commissioner. The specified exceptions, which must still be filed and approved before use, include, among

Legislative or Regulatory Citation	Suitability Model	Annuity Disclosure Model	Other	Status	Comments
					others, forms for long-term care insurance. Passed the Assembly 1/23/08.
S. 294	X			Signed by governor 3/26. Effective 3/28 except for following sections: Insurance Form Filing is effective 7/1/08 and Suitability of Annuities is effective 10/1/08.	Enacts the NAIC Interstate Insurance Product Regulation Compact with slight deviations. Amends the suitability of annuity sales statutes to make them apply to consumers of all ages, not just to a person 65 or older. This makes the statute consistent with the NAIC Suitability in Annuity Transactions Model Regulation. Provides that, with a number of specified exceptions, a form first used on or after the effective date of the provision that has not already been filed by that date may be used without approval by the commissioner. The specified exceptions, which must still be filed and approved before use, include, among others, forms for long-term care insurance. The Committee met on 4/22 and heard presentations from Jim Mumford of the Iowa Department, IMSA, and FINRA regarding their activities on suitability. The Committee has recently been given the task of developing baseline supervision standards for the NAIC Suitability of Annuity Sales Working Group.
WYOMING					
Ins. Reg. Ch. 27 § 11			X	Adopted 1968 & 1997.	Variable contract regulation on suitability of sales.
					No plans to adopt the NAIC Suitability Model.

ACLI Disclosure Initiative for Fixed, Index and Variable Annuities: Constructive Change on the Horizon

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I. Background and Summary

A. Over the past several years, regulators, the press, and consumers have regularly observed that useful information about different annuities and sales practices needed improvement to facilitate informed decision-making and suitable matches of customer needs with products.

B. In January 2005, ACLI's Board of Directors took steps to enhance annuity disclosure and improve fixed, index, and variable annuity sales practices.

1. ACLI formed a CEO-level task force to develop recommendations addressing criticism that annuities are misunderstood by consumers. The Task Force emphasized increased attention to suitability, and prioritized enhanced consumer decision-making through improved disclosure with short, plain-English information.

2. To elevate consistently suitable annuity sales practices, ACLI strongly recommended expanding the Senior Protection in Annuity Transactions Model Regulation to all ages, rather than limiting it to age 65 and over.

a) The NAIC adopted ACLI's recommended enlargement to all ages in June 2006, renaming it the Suitability in Annuity Transactions Model Regulation. ACLI has actively advocated uniform adoption of this model suitability regulation in the states.

b) A chart accompanying this outline compiles the status of the NAIC Suitability in Annuity Transactions Model Regulation together with the status of the NAIC Annuity Disclosure Model Regulation in the states.

3. To constructively improve disclosure, ACLI actively advocated adoption of the NAIC Annuity Disclosure Model Regulation throughout the states. Although developed in 1995, it had not been widely adopted.

a) The disclosure model establishes an informational core of improved understanding about annuities.

b) Life insurers in the fixed, index and variable annuity markets emphasized design of short, simple, and comparable disclosure as an essential priority to meaningfully help consumers in purchase decisions.

C. The industry group developed a set of “templates” for presenting required disclosure information in a simplified plain-English presentation of information essential to an informed purchase decision.

1. The disclosure templates for fixed and index annuities implement standards mandated by the NAIC Annuity Disclosure Model Regulation.

2. The template for variable annuities parallels the approach of the mutual fund Profile Plus and would be followed by a full prospectus.

D. The industry group produced sample documents under the three templates based on actual fixed, variable and index annuities.

1. The samples were tested in a series of focus groups with retirees, consumers in the baby boomer age group, and annuity salespersons.

2. The various focus groups expressed constructive and positive reactions. The sample documents were revised to reflect focus group feedback and then retested again with the groups.

E. ACLI regularly shared the templates with the SEC, FINRA, and state insurance regulators as the designs evolved.

II. Ingredients of the Disclosure Template Project

A. General guidelines on how to write readable disclosure materials;

B. Instructions on how to complete a disclosure template;

C. Templates for fixed, index, and variable annuity disclosures;

D. Instructions and a template for depicting indexed interest crediting strategies; and,

E. A sample of what an actual disclosure might look like for each product.

F. The ACLI Disclosure Templates and Guides are attached at the back of this outline

III. The Guidelines to Readable Disclosure in ACLI’s Disclosure Initiative

A. The purpose and scope of ACLI’s readable disclosure guidelines directly parallel the SEC’s goals and structure in plain-English Rule 421(d) under the Securities Act of 1933.

1. Under the SEC's plain-English rule, issuers must use plain-English principles in the organization, language, and design of the front and back cover pages, the summary, and the risk factors section in filings with the SEC's Division of Corporation Finance under the 1933 Act. When drafting the language for selected parts of the prospectus, issuers must comply with a series of specified plain-English principles.

a) See "Plain-English Disclosure," the updated SEC Staff Bulletin No 7 at http://www.sec.gov/interps/legal/cfslb7a.htm.

b) See also the SEC's "Plain-English Handbook" at http://www.sec.gov/news/extra/handbook.htm .

c) The rule and handbook extol clear, simplified narrative in disclosure, using basic rules of grammar and composition.

B. ACLI's Guideline to Readable Disclosure

1. The guideline outlines rules for writing more readable disclosures, and relied on parallel government endeavors as an important resource which is found at http://www.plainlanguage.gov.

a) Like the SEC Handbook, the ACLI guidelines emphasize clear, simplified disclosure, using basic rules of grammar and composition.

b) The guide instructs and encourages drafters to, among other things:

(1) Write for the average reader;

(2) Organize to meet the needs of the reader;

(3) Include only the information your reader needs;

(4) Use headings and make the headings useful

(5) Use short sentences and short sections; and,

(6) Use lists and tables to simplify information.

2. The structure of the guideline's follows the organization of the online presentation, "Writing in Plain Language on the TriCare Site" at http://www.tricare.osd.mil/webmaster/Plain-Language-Rules-Web-Toolkit-2005-07-27.ppt.

3. Brenda J. Cude, Ph.D., Professor of Housing and Consumer Economics, at the University of Georgia developed the guidelines for ACLI.

a) In her work, Dr. Cude focuses specifically on consumer protection and behavior, including how consumers acquire and use information before making buying decisions.

b) She represents the consumer perspective in policy discussions at national meetings of insurance regulators.

IV. Reactions from Regulators to the Summary Disclosure Initiative

A. SEC

1. On March 23, 2007, ACLI and NAVA staff met with Representatives of the SEC's Division of Investment Management to discuss the Annuity Disclosure Guidelines developed by the ACLI CEO Task Force on Annuities.

a) The SEC staff was receptive to the value of simplified plain-English disclosure in a short, user-friendly format.

2. ACLI also met with the SEC's Division of Market Regulation in the spring of 2007 to provide updates on the summary disclosure initiative and to explain how it could supplant or replace the pending point-of-sale proposal for variable annuities under the 1934 Act.

a) The Division staff was receptive to the value of simplified plain-English disclosure in a short, user-friendly format.

B. FINRA

1. ACLI and NAVA staff met with representatives of FINRA in April and May 2007 to highlight the status of the annuity disclosure projects under development by ACLI.

a) The industry group emphasized that the consensus recommendations at the NASD's Annuity Roundtable in May 2006 have been fulfilled through:

(1) Summary annuity disclosure for fixed, variable, and index annuities;

(2) Implementation of and amendment to the NAIC Suitability in Annuity Transactions Regulation, which fully incorporates FINRA's suitability and supervision standards, and further includes a monitoring role for life insurers issuing these products; and,

(3) Implementation of the NAIC Annuity Disclosure Regulation.

(4) The ACLI group emphasized that with multiple moving parts dealing with annuity suitability, supervision and disclosure, it is critical that FINRA be fully aware and carefully coordinated on state and federal developments to avoid conflicts and redundancies.

b) ACLI and NAVA staff met with Representatives of FINRA to discuss the Annuity Disclosure Guidelines developed by the ACLI CEO Task Force on Annuities, and summarized the status of several aspects of the CEO Task Force Initiative.

(1) ACLI staff updated FINRA staff with the status and purpose of the annuity disclosure project.

c) FINRA staff was receptive to the value of simplified plain-English disclosure in a short, user-friendly format, and offered a variety of constructive suggestions.

d) FINRA staff also suggested a tiered approach to implementing the regulation on a state by state basis, together with SEC and NAIC level implementation.

C. State Regulators

1. NAIC

a) ACLI staff identified two possible avenues for NAIC recognition of the work of ACLI's CEO Task Force on Annuities regarding disclosure.

(1) ACLI staff contacted the chair of the Life Insurance and Annuities (A) Committee to explore the option of specifically having the disclosure template and instructions made a part of the existing Annuity Disclosure Model Regulation.

(2) Based on her observation that the amendment of the model could take the remainder of 2007 and in the interest moving quickly, ACLI staff also approached the chair of

the Market Regulation and Consumer Affairs (D) Committee and the co-chairs of the Market Regulation Handbook Working Group to assess their willingness to incorporate the template and instructions into the Market Conduct Examiners Handbook as an appendix.

(3) If the industry group is successful in this effort, the template would be used by examiners in their review of an insurer's compliance with the Suitability in Annuity Transactions Regulation.

2. Individual States

a) The Iowa Insurance Department conducted a Pilot Program beginning in 2008 that would encourage life insurers to voluntarily use the disclosure templates as a means of fulfilling the state's Annuity Disclosure Regulation.

b) Under the pilot, use of the template in the pilot program would be in lieu of, and not in addition to, disclosure otherwise required in the Annuity Disclosure Regulation.

c) It is expected that the pilot program could be used for as many of the company's products as possible, but not necessarily for all of the products in its line.

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The NAIC Annuity Disclosure Model Regulation: A Dovetail with the ACLI Annuity Disclosure Initiative

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I. Background

A. This segment of the outline summarizes the elements of the NAIC Annuity Disclosure Model Regulation, the required Disclosure Statement and the required NAIC Buyer's Guide to Fixed Deferred Annuities, including a supplement for Equity Indexed Annuities.

B. The NAIC Annuity Disclosure Model Regulation can be found at NAIC Model Reporting Service 245-I (April 2006).

C. ACLI's Annuity Disclosure Project was designed to fulfill the NAIC Annuity Disclosure Model Regulation.

II. Objective of the Annuity Disclosure Model Regulation

A. To provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education.

1. The regulation specifies the minimum information which must be disclosed and the method and timing of delivering it.

2. The regulation seeks to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

III. Annuities Covered by the Regulation

A. All group and individual annuity contracts, except:

1. Registered or non-registered variable annuities.

2. Immediate and deferred annuities having only non-guaranteed elements.

3. Annuities used to fund:

a) An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

b) A plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer,

c) A governmental or church plan defined in Section 414 or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

4. Structured Settlement Annuities.

5. Note: Under the model regulation, states may optionally elect to exclude charitable gift annuities and structured settlement annuities also.

IV. Information Mandated in Required NAIC Disclosure Statement

A. The generic name of the contract, the company product name, if different, form number, and the fact that it is an annuity;

B. The insurer's name and address;

C. A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate:

1. The guaranteed, non-guaranteed and determinable elements of the contract, and their limitations, if any, and an explanation of how they operate;

2. An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

3. Periodic income options both on a guaranteed and non-guaranteed basis;

4. Any value reductions caused by withdrawals from or surrender of the contract;

5. How values in the contract can be accessed;

6. The death benefit, if available, and how it will be calculated;

7. A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

8. Impact of any rider, such as a long-term care rider.

D. Specific dollar amount or percentage charges and fees, which must be listed with an explanation of how they apply.

E. Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change.

F. Insurers must define terms used in the disclosure statement in language understandable by a typical person in the target market.

V. Required NAIC Buyer's Guide to Fixed Deferred Annuities (appears at the end of the outline).

A. A Buyer's Guide prepared by the NAIC provides information about different aspects of annuities, such as

1. What an annuity is.
2. Descriptions of the different kinds of annuities.
    a) Single premium or multiple premium.
    b) Immediate or deferred.
    c) Fixed or variable.
3. How interest rates are set for the deferred variable annuity.
    a) Explanation of current interest rate.
    b) Explanation of minimum guaranteed rate.
    c) Explanation of multiple interest rates.
4. Description of charges in the contract.
    a) Surrender or withdrawal charges.
    b) Free withdrawal features.
    c) Contract fee.
    d) Transaction fee.
    e) Percentage of premium charge.
    f) Premium tax charge.
5. Fixed Annuity Benefits
    a) Annuity income payments.
    b) Annuity payment options.

(1) Life only.

(2) Life annuity with period certain.

(3) Joint and survivor.

VI. Timetable for Delivery of Required Disclosure Statement and Buyer's Guide:

A. At or before the time of application if annuity application is taken in a *face-to-face meeting*.

B. No later than five (5) business days after the completed application is received by the insurer, if annuity application is taken by means *other than in a face-to-face meeting*.

1. With applications received from a *direct solicitation through the mail*:

   a) Inclusion of a Buyer's Guide and Disclosure Statement in the direct mail solicitation satisfies the requirement for delivery no later than five (5) business days after receipt of the application.

2. For applications received via the Internet:

   a) Taking reasonable steps to make the Buyer's Guide and Disclosure Statement available for viewing and printing on the insurer's website satisfies the requirement for delivery no later than five (5) business day of receipt of the application.

3. Annuity solicitations in other than face-to-face meetings must include a statement that the proposed applicant may contact the insurance department of the state for a free annuity Buyer's Guide. Alternatively, the insurer may include a statement that the prospective applicant may contact the insurer for a free annuity Buyer's Guide.

4. *Extended Free-Look Period*: where the Buyer's Guide and disclosure document are not provided at or before the time of application, a free look period of no less than fifteen (15) days shall be provided for the applicant to return the annuity contract without penalty. The free look runs concurrently with any other free look provided under state law or regulation.

VII. Required Report to Contract Owners

A. For annuities in the payout period with changes in non-guaranteed elements and for the accumulation period of a deferred annuity, the insurer must provide each contract owner with a report, *at least annually*, on the status of the contract that contains at least the following information:

1. The beginning and end date of the current report period;

2. The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

3. The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

4. The amount of outstanding loans, if any, as of the end of the current report period.

VIII. A State-by-State Index to the NAIC Annuity Disclosure Model Regulation Appears on the pages preceding this outline.

IX. NAIC Buyer's Guide: Appears on Pages Immediately Following This Outline

A. Fixed Deferred Annuities are highlighted at the front of the Guide.

B. Equity Index Annuities are highlighted in a supplement at the back of the Guide.

X. Observations on the Recently Revised NAIC Suitability in Annuity Transactions Model Regulation

A. The NAIC's 2006 modifications to, and substance of, the regulation directly address a number of public concerns about annuity regulation.

B. The NASD has advocated similar patterns of regulation for fixed and variable annuities under state and federal regulation in a number of public forums, including:

1. The May 5, 2006 Annuity Roundtable which is available by archived webcast at http://www.nasd.com/RulesRegulation/IssueCenter/VariableAnnuities/NASDW_016465 .

2. Statements of NASD representatives:

a) NASD believes that "*rules governing the marketing and sale of annuity products* - regardless of whether the particular annuity is regulated as an insurance product or a security - *should be comparable*.... In partnership with the Minnesota Department of Commerce, NASD is working with the Securities and Exchange Commission and state insurance and securities regulators to *bring the rules governing annuity sales, in both the insurance and securities regulatory regimes, into conformity*." (emphasis added); Maxey, *American Equity CEO: Slower Indexed Sales Won't Hit Net*, Dow Jones Newswires October 13, 2006;

b) Robert Glauber, former NASD Chairman and CEO stated:

(1) "Why should brokers have to follow one set of rules when they sell fixed annuities, another when they sell variable annuities and yet another when they sell equity-indexed annuities?" Speech by Robert Glauber, NASD Spring Securities Conference, May 19, 2006, available at http://www.nasd.com/PressRoom/SpeechesTestimony/RobertR.Glauber/NASDW_016648 .

(2) "Earlier this month, NASD and the Minnesota Department of Commerce hosted a public roundtable discussion in Washington on annuities - fixed, variable and equity-indexed - each of which falls under a different regulatory approach. The participants, who represented the securities and insurance industries and their state and federal regulators, agreed almost to a person that this was not a good state of affairs and that *simplification and harmonization of rules and regulatory approaches covering these products was a goal we should all strive to achieve*." (emphasis added). Speech of Robert Glauber, ICI Annual Meeting, May 18, 2006, available at http://www.nasd.com/PressRoom/SpeechesTestimony/RobertR.Glauber/NASDW_016642 .

c) Mary Shapiro, NASD Chairman & CEO has stated:

(1) "The [post-annuity roundtable] working group will consider the issues of disclosure, suitability, supervision and marketing of fixed, variable and equity-indexed annuities. *Regardless of which regulator has jurisdiction over these products, investors deserve as level a playing field as possible. When product lines blur and regulators' reach is limited*, we have an important responsibility to ensure that we work closely together to ensure the highest quality of investor protection." NASAA Annual Conference (September 18, 2006) (emphasis added). Available at

http://www.nasd.com/PressRoom/SpeechesTestimony/MaryL.Schapiro/NASDW_017410

C. The life insurance industry has responded to the public observations and has acted to support and promote enactment of the revised NAIC Annuity Disclosure Model Regulation.

1. The American Council of Life Insurers (ACLI) endorsed the removal of the age 65 limitation in the scope of the NAIC Senior Protection in Annuity Transactions Model Regulation, and supports adoption of the NAIC Suitability in Annuity Transactions Model Regulation, and the NAIC Annuity Disclosure Model Regulation.

2. See ACLI Press Release, NAIC Senior Protection in Annuity Transactions Model Should Cover All Consumers ACLI Says, (Jan. 24, 2006) ["The decision to support extending standards results from ongoing ACLI efforts to identify areas where the state laws or regulations governing annuity sales can be enhanced, and reflects a strong desire by U.S. life insurers to enhance Americans' retirement security"]; available at http://www.acli.com/ACLI/Newsroom/News%20Releases/Text%20Releases/NR06-004

3. ACLI also established a CEO Task Force to develop constructive solutions to promote meaningful disclosure about annuities and suitable sales practices in September 2005 that has coordinated with the NASD and the SEC about a number of responsive industry developments in these areas.

XI. Broad Impact Through IMSA Standards Implementation

A. On October 19, 2006 the Insurance Marketplace Standards Association (IMSA) announced its adoption of new suitability standards for annuities and long-term care insurance, which implement the NAIC Suitability in Annuity Transactions Model Regulation.

B. The IMSA standards are effective immediately with a compliance date of January 2, 2008.

1. Through IMSA's membership, the new suitability standards will have an impact on 60% of the insurance marketplace. In effect, the standards will apply to all IMSA members, even before individual states adopted the NAIC Suitability in Annuity Transactions Model Regulation.

C. See http://imsaethics.org/pdfs/R-newstandards10-19-06FINAL.pdf

Annuity Buyer's Guide

Prepared by the National Association of Insurance Commissioners

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various insurance departments to coordinate insurance laws for the benefit of all consumers.

This guide does not endorse any company or policy.

Reprinted by XYZ Life Insurance Company

It is important that you understand the differences among various annuities so you can choose the kind that best fits your needs. This guide focuses on fixed deferred annuity contracts. There is, however, a brief description of variable annuities. If you're thinking of buying an equity-indexed annuity, an appendix to this guide will give you specific information. This Guide isn't meant to offer legal, financial or tax advice. You may want to consult independent advisors. At the end of this Guide are questions you should ask your agent or the company. Make sure you're satisfied with the answers before you buy.

WHAT IS AN ANNUITY?

An annuity is a contract in which an insurance company makes a series of income payments at regular intervals in return for a premium or premiums you have paid. Annuities are most often bought for future retirement income. Only an annuity can pay an income that can be guaranteed to last as long as you live.

An annuity is neither a life insurance nor a health insurance policy. It's not a savings account or a savings certificate. You shouldn't buy an annuity to reach short-term financial goals.

Your value in an annuity contract is the premiums you've paid, less any applicable charges, plus interest credited. The insurance company uses the value to figure the amount of most of the benefits that you can choose to receive from an annuity contract. This guide explains how interest is credited as well as some typical charges and benefits of annuity contracts.

A deferred annuity has two parts or periods. During the accumulation period, the money you put into the annuity, less any applicable charges, earns interest. The earnings grow tax-deferred as long as you leave them in the annuity . During the second period, called the payout period, the company pays income to you or to someone you choose.

WHAT ARE THE DIFFERENT KINDS OF ANNUITIES?

This guide explains major differences in different kinds of annuities to help you understand how each might meet your needs. But look at the specific terms of an individual contract you're considering and the disclosure document you receive. If your annuity is being used to fund or provide benefits under a pension plan, the benefits you get will depend on the terms of the plan. Contact your pension plan administrator for information.

This Buyer's Guide will focus on individual fixed deferred annuities.

Single Premium or Multiple Premium

You pay the insurance company only one payment for a single premium annuity. You make a series of payments for a multiple premium annuity. There are two kinds of multiple premium annuities. One kind is a flexible premium contract. Within set limits, you pay as much premium as you want, whenever you want. In the other kind, a scheduled premium annuity, the contract spells out your payments and how often you'll make them.

Immediate or Deferred

With an immediate annuity, income payments start no later than one year after you pay the premium. You usually pay for an immediate annuity with one payment.

The income payments from a deferred annuity often start many years later. Deferred annuities have an accumulation period, which is the time between when you start paying premiums and when income payments start.

Fixed or Variable

• **Fixed**

During the accumulation period of a fixed deferred annuity, your money (less any applicable charges) earns interest at rates set by the insurance company or in a way spelled out in the annuity contract. The company guarantees that it will pay no less than a minimum rate of interest. During the payout period, the amount of each income payment to you is generally set when the payments start and will not change.

• **Variable**

During the accumulation period of a variable annuity, the insurance company puts your premiums (less any applicable charges) into a separate account. You decide how the company will invest those premiums, depending on how much risk you want to take. You may put your premium into a stock, bond or other account, with no guarantees, or into a fixed account, with a minimum guaranteed interest. During the payout period of a variable annuity, the amount of each income payment to you may be fixed (set at the beginning) or variable (changing with the value of the investments in the separate account).

HOW ARE THE INTEREST RATES SET FOR MY FIXED DEFERRED ANNUITY?

During the accumulation period, your money (less any applicable charges) earns interest at rates that change from time to time. Usually, what these rates will be is entirely up to the insurance company.

Current Interest Rate

The current rate is the rate the company decides to credit to your contract at a particular time. The company will guarantee it will not change for some time period.

• The initial rate is an interest rate the insurance company may credit for a set period of time after you first buy your annuity. The initial rate in some contracts may be higher than it will be later. This is often called a bonus rate.

• The renewal rate is the rate credited by the company after the end of the set time period. The contract tells how the company will set the renewal rate, which may be tied to an external reference or index.

Minimum Guaranteed Rate

The minimum guaranteed interest rate is the lowest rate your annuity will earn. This rate is stated in the contract.

Multiple Interest Rates

Some annuity contracts apply different interest rates to each premium you pay or to premiums you pay during different time periods.

Other annuity contracts may have two or more accumulated values that fund different benefit options. These accumulated values may use different interest rates. You get only one of the accumulated values depending on which benefit you choose.

WHAT CHARGES MAY BE SUBTRACTED FROM MY FIXED DEFERRED ANNUITY?

Most annuities have charges related to the cost of selling or servicing it. These charges may be subtracted directly from the contract value. Ask your agent or the company to describe the charges that apply to your annuity. Some examples of charges, fees and taxes are:

Surrender or Withdrawal Charges

If you need access to your money, you may be able to take all or part of the value out of your annuity at any time during the accumulation period. If you take out part of the value, you may pay a withdrawal charge. If you take out all of the value and surrender, or terminate, the annuity, you may pay a surrender charge. In either case, the company may figure the charge as a percentage of the value of the contract, of the premiums you've paid or of the amount you're withdrawing. The company may reduce or even eliminate the surrender charge after you've had the contract for a stated number of years. A company may waive the surrender charge when it pays a death benefit.

Some annuities have stated terms. When the term is up, the contract may automatically expire or renew. You're usually given a short period of time, called a window, to decide if you want to renew or surrender the annuity. If you surrender during the window, you won't have to pay surrender charges. If you renew, the surrender or withdrawal charges may start over.

In some annuities, there is no charge if you surrender your contract when the company's current interest rate falls below a certain level. This may be called a bail-out option.

In a multiple-premium annuity, the surrender charge may apply to each premium paid for a certain period of time. This may be called a rolling surrender or withdrawal charge.

Some annuity contracts have a market value adjustment feature. If interest rates are different when you surrender your annuity than when you bought it, a market value adjustment may make the cash surrender value higher or lower. Since you and the insurance company share this risk, an annuity with a MVA feature may credit a higher rate than an annuity without that feature.

Be sure to read the Tax Treatment section and ask your tax advisor for information about possible tax penalties on withdrawals.

Free Withdrawal

Your annuity may have a limited free withdrawal feature. That lets you make one or more withdrawals without a charge. The size of the free withdrawal is often limited to a set percentage of your contract value. If you make a larger withdrawal, you may pay withdrawal charges. You may lose any interest above the minimum guaranteed rate on the amount withdrawn. Some annuities waive withdrawal charges in certain situations, such as death, confinement in a nursing home or terminal illness.

Contract Fee

A contract fee is a flat dollar amount charged either once or annually.

Transaction Fee

A transaction fee is a charge per premium payment or other transaction.

Percentage of Premium Charge

A percentage of premium charge is a charge deducted from each premium paid. The percentage may be lower after the contract has been in force for a certain number of years or after total premiums paid have reached a certain amount.

Premium Tax

Some states charge a tax on annuities. The insurance company pays this tax to the state. The company may subtract the amount of the tax when you pay your premium, when you withdraw your contract value, when you start to receive income payments or when it pays a death benefit to your beneficiary.

WHAT ARE SOME FIXED DEFERRED ANNUITY CONTRACT BENEFITS?

Annuity Income Payments

One of the most important benefits of deferred annuities is your ability to use the value built up during the accumulation period to give you a lump sum payment or to make income payments during the payout period. Income payments are usually made monthly but you may choose to receive them less often. The size of income payments is based on the accumulated value in your annuity and the annuity's benefit rate in effect when income payments start. The benefit rate usually depends on your age and sex, and the annuity payment option you choose. For example, you might choose payments that continue as long as you live, as long as your spouse lives or for a set number of years.

There is a table of guaranteed benefit rates in each annuity contract. Most companies have current benefit rates as well. The company can change the current rates at any time, but the current rates can never be less than the guaranteed benefit rates. When income payments start, the insurance company generally uses the benefit rate in effect at that time to figure the amount of your income payment.

Companies may offer various income payment options. You (the owner) or another person that you name may choose the option. The options are described here as if the payments are made to you.

• Life Only - The company pays income for your lifetime. It doesn't make any payments to anyone after you die. This payment option usually pays the highest income possible. You might choose it if you have no dependents, if you have taken care of them through other means or if the dependents have enough income of their own.

• Life Annuity with Period Certain - The company pays income for as long as you live and guarantees to make payments for a set number of years even if you die. This period certain is usually 10 or 20 years. If you live longer than the period certain, you'll continue to receive payments until you die. If you die during the period certain, your beneficiary gets regular payments for the rest of that period. If you die after the period certain, your beneficiary doesn't receive any payments from your annuity. Because the "period certain" is an added benefit, each income payment will be smaller than in a life-only option.

• Joint and Survivor - The company pays income as long as either you or your beneficiary lives. You may choose to decrease the amount of the payments after the first death. You may also be able to choose to have payments continue for a set length of time. Because the survivor feature is an added benefit, each income payment is smaller than in a life-only option.

Death Benefit

In some annuity contracts, the company may pay a death benefit to your beneficiary if you die before the income payments start. The most common death benefit is the contract value or the premiums paid, whichever is more.

CAN MY ANNUITY'S VALUE BE DIFFERENT DEPENDING ON MY CHOICE OF BENEFIT?

While all deferred annuities offer a choice of benefits, some use different accumulated values to pay different benefits. For example, an annuity may use one value if annuity payments are for retirement benefits and a different value if the annuity is surrendered. As another example, an annuity may use one value for long-term care benefits and a different value if the annuity is surrendered. You can't receive more than one benefit at the same time.

WHAT ABOUT THE TAX TREATMENT OF ANNUITIES?

Below is a general discussion about taxes and annuities. You should consult a professional tax advisor to discuss your individual tax situation.

Under current federal law, annuities receive special tax treatment. Income tax on annuities is deferred, which means you aren't taxed on the interest your money earns while it stays in the annuity. Tax-deferred accumulation isn't the same as tax-free accumulation. An advantage of tax deferral is that the tax bracket you're in when you receive annuity income payments may be lower than the one you're in during the accumulation period. You'll also be earning interest on the amount you would have paid in taxes during the accumulation period. Most states' tax laws on annuities follow the federal law.

Part of the payments you receive from an annuity will be considered as a return of the premium you've paid. You won't have to pay taxes on that part. Another part of the payments is considered interest you've earned. You must pay taxes on the part that is considered interest when you withdraw the money. You may also have to pay a 10% tax penalty if you withdraw the accumulation before age 59 1/2. The Internal Revenue Code also has rules about distributions after the death of a contract holder.

Annuities used to fund certain employee pension benefit plans (those under Internal Revenue Code Sections 401(a), 401(k), 403(b), 457 or 414) defer taxes on plan contributions as well as on interest or investment income. Within the limits set by the law, you can use pretax dollars to make payments to the annuity. When you take money out, it will be taxed.

You can also use annuities to fund traditional and Roth IRAs under Internal Revenue Code Section 408. If you buy an annuity to fund an IRA, you'll receive a disclosure statement describing the tax treatment.

WHAT IS A "FREE LOOK" PROVISION?

Many states have laws which give you a set number of days to look at the annuity contract after you buy it. If you decide during that time that you don't want the annuity, you can return the contract and get all your money back. This is often referred to as a free look or right to return period. The free look period should be prominently stated in your contract. Be sure to read your contract carefully during the free look period.

HOW DO I KNOW IF A FIXED DEFERRED ANNUITY IS RIGHT FOR ME?

The questions listed below may help you decide which type of annuity, if any, meets your retirement planning and financial needs. You should think about what your goals are for the money you may put into the annuity. You need to think about how much risk you're willing to take with the money. Ask yourself:

• How much retirement income will I need in addition to what I will get from Social Security and my pension?

• Will I need that additional income only for myself or for myself and someone else?

• How long can I leave my money in the annuity?

• When will I need income payments?

• Does the annuity let me get money when I need it?

• Do I want a fixed annuity with a guaranteed interest rate and little or no risk of losing the principal?

• Do I want a variable annuity with the potential for higher earnings that aren't guaranteed and the possibility that I may risk losing principal?

• Or, am I somewhere in between and willing to take some risks with an equity-indexed annuity?

WHAT QUESTIONS SHOULD I ASK MY AGENT OR THE COMPANY?

• Is this a single premium or multiple premium contract?

• Is this an equity-indexed annuity?

• What is the initial interest rate and how long is it guaranteed?

• Does the initial rate include a bonus rate and how much is the bonus?

• What is the guaranteed minimum interest rate?

• What renewal rate is the company crediting on annuity contracts of the same type that were issued last year?

• Are there withdrawal or surrender charges or penalties if I want to end my contract early and take out all of my money? How much are they?

• Can I get a partial withdrawal without paying surrender or other charges or losing interest?

• Does my annuity waive withdrawal charges for reasons such as death, confinement in a nursing home or terminal illness?

• Is there a market value adjustment (MVA) provision in my annuity?

• What other charges, if any, may be deducted from my premium or contract value?

• If I pick a shorter or longer payout period or surrender the annuity, will the accumulated value or the way interest is credited change?

• Is there a death benefit? How is it set? Can it change?

• What income payment options can I choose? Once I choose a payment option, can I change it?

FINAL POINTS TO CONSIDER

Before you decide to buy an annuity, you should review the contract. Terms and conditions of each annuity contract will vary.

Ask yourself if, depending on your needs or age, this annuity is right for you. Taking money out of an annuity may mean you must pay taxes. Also, while it's sometimes possible to transfer the value of an older annuity into a new annuity, the new annuity may have a new schedule of charges that could mean new expenses you must pay directly or indirectly.

You should understand the long-term nature of your purchase. Be sure you plan to keep an annuity long enough so that the charges don't take too much of the money you put in. Be sure you understand the effect of all charges.

If you're buying an annuity to fund an IRA or other tax-deferred retirement program, be sure that you're eligible. Also, ask if there are any restrictions connected with the program.

Remember that the quality of service that you can expect from the company and the agent is a very important factor in your decision.

When you receive your annuity contract, READ IT CAREFULLY!! Ask the agent and company for an explanation of anything you don't understand. Do this before any free look period ends.

Compare information for similar contracts from several companies. Comparing products may help you make a better decision.

If you have a specific question or can't get answers you need from the agent or company, contact your state insurance department.

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APPENDIX I-EQUITY-INDEXED ANNUITIES

This appendix to the Buyer's Guide for Fixed Deferred Annuities will focus on equity-indexed annuities. Like other types of fixed deferred annuities, equity-indexed annuities provide for annuity income payments, death benefits and tax-deferred accumulation. You should read the Buyer's Guide for general information about those features and about provisions such as withdrawal and surrender charges.

WHAT ARE EQUITY-INDEXED ANNUITIES?

An equity-indexed annuity is a fixed annuity, either immediate or deferred, that earns interest or provides benefits that are linked to an external equity reference or an equity index. The value of the index might be tied to a stock or other equity index. One of the most commonly used indices is Standard & Poor's 500 Composite Stock Price Index (the S&P 500), which is an equity index. The value of any index varies from day to day and is not predictable. (Note: S&P 500 is a registered trademark of the McGraw-Hill Companies, Inc., used with permission.)

When you buy an equity-indexed annuity you own an insurance contract. You are not buying shares of any stock or index.

While immediate equity-indexed annuities may be available, this appendix will focus on deferred equity-indexed annuities.

HOW ARE THEY DIFFERENT FROM OTHER FIXED ANNUITIES?

An equity-indexed annuity is different from other fixed annuities because of the way it credits interest to your annuity's value. Some fixed annuities only credit interest calculated at a rate set in the contract. Other fixed annuities also credit interest at rates set from time to time by the insurance company. Equity-indexed annuities credit interest using a formula based on changes in the index to which the annuity is linked. The formula decides how the additional interest, if any, is calculated and credited. How much additional interest you get and when you get it depends on the features of your particular annuity.

Your equity-indexed annuity, like other fixed annuities, also promises to pay a minimum interest rate. The rate that will be applied will not be less than this minimum guaranteed rate even if the index-linked interest rate is lower. The value of your annuity also will not drop below a guaranteed minimum. For example, many single premium contracts guarantee the minimum value will never be less than 90 percent of the premium paid, plus at least 3% in annual interest (less any partial withdrawals). The guaranteed value is the minimum amount available during a term for withdrawals, as well as for some annuitizations (see "Annuity Income Payments") and death benefits. The insurance company will adjust the value of the annuity at the end of each term to reflect any index increases.

WHAT ARE SOME EQUITY-INDEXED ANNUITY CONTRACT FEATURES?

Two features that have the greatest effect on the amount of additional interest that may be credited to an equity-indexed annuity are the indexing method and the participation rate. It is important to understand the features and how they work together. The following describes some other equity-indexed annuity features that affect the index-linked formula.

Indexing Method

The indexing method means the approach used to measure the amount of change, if any, in the index. Some of the most common indexing methods, which are explained more fully later on, include annual reset (ratcheting), high-water mark and point-to-point.

Term

The index term is the period over which index-linked interest is calculated; the interest is credited to your annuity at the end of a term. Terms are generally from one to ten years, with six or seven years being most common. Some annuities offer single terms while others offer multiple, consecutive terms. If your annuity has multiple terms, there will usually be a window at the end of each term, typically 30 days, during which you may withdraw your money without penalty. For installment premium annuities, the payment of each premium may begin a new term for that premium.

Participation Rate

The participation rate decides how much of the increase in the index will be used to calculate index-linked interest. For example, if the calculated change in the index is 9% and the participation rate is 70%, the index-linked interest rate for your annuity will be 6.3% (9% x 70% = 6.3%). A company may set a different participation rate for newly issued annuities as often as each day. Therefore, the initial participation rate in your annuity will depend on when it is issued by the company. The company usually guarantees the participation rate for a specific period (from one year to the entire term). When that period is over, the company sets a new participation rate for the next period. Some annuities guarantee that the participation rate will never be set lower than a specified minimum or higher than a specified maximum.

Cap Rate or Cap

Some annuities may put an upper limit, or cap, on the index-linked interest rate. This is the maximum rate of interest the annuity will earn. In the example given above, if the contract has a 6% cap rate, 6%, and not 6.3%, would be credited. Not all annuities have a cap rate.

Floor on Equity Index-Linked Interest

The floor is the minimum index-linked interest rate you will earn. The most common floor is 0%. A 0% floor assures that even if the index decreases in value, the index-linked interest that you earn will be zero and not negative. As in the case of a cap, not all annuities have a stated floor on index-linked interest rates. But in all cases, your fixed annuity will have a minimum guaranteed value.

Averaging

In some annuities, the average of an index's value is used rather than the actual value of the index on a specified date. The index averaging may occur at the beginning, the end, or throughout the entire term of the annuity.

Interest Compounding

Some annuities pay simple interest during an index term. That means index-linked interest is added to your original premium amount but does not compound during the term. Others pay compound interest during a term, which means that index-linked interest that has already been credited also earns interest in the future. In either case, however, the interest earned in one term is usually compounded in the next.

Margin/Spread/Administrative Fee

In some annuities, the index-linked interest rate is computed by subtracting a specific percentage from any calculated change in the index. This percentage, sometimes referred to as the "margin," "spread," or "administrative fee," might be instead of, or in addition to, a participation rate. For example, if the calculated change in the index is 10%, your annuity might specify that 2.25% will be subtracted from the rate to determine the interest rate credited. In this example, the rate would be 7.75% (10% - 2.25% = 7.75%). In this example, the company subtracts the percentage only if the change in the index produces a positive interest rate.

Vesting

Some annuities credit none of the index-linked interest or only part of it, if you take out all your money before the end of the term. The percentage that is vested, or credited, generally increases as the term comes closer to its end and is always 100% at the end of the term.

HOW DO THE COMMON INDEXING METHODS DIFFER?

Annual Reset

Index-linked interest, if any, is determined each year by comparing the index value at the end of the contract year with the index value at the start of the contract year. Interest is added to your annuity each year during the term.

High-Water Mark

The index-linked interest, if any, is decided by looking at the index value at various points during the term, usually the annual anniversaries of the date you bought the annuity. The interest is based on the difference between the highest index value and the index value at the start of the term. Interest is added to your annuity at the end of the term.

Low-Water Mark

The index-linked interest, if any, is determined by looking at the index value at various points during the term, usually the annual anniversaries of the date you bought the annuity. The interest is based on the difference between the index value at the end of the term and the lowest index value. Interest is added to your annuity at the end of the term.

Point-to-Point

The index-linked interest, if any, is based on the difference between the index value at the end of the term and the index value at the start of the term. Interest is added to your annuity at the end of the term.

WHAT ARE SOME OF THE FEATURES AND TRADE-OFFS OF DIFFERENT INDEXING METHODS?

Generally, equity-indexed annuities offer preset combinations of features. You may have to make trade-offs to get features you want in an annuity. This means the annuity you chose may also have features you don't want.

Features	Trade-Offs
Annual Reset	
Since the interest earned is "locked in" annually and the index value is "reset" at the end of each year, future decreases in the index will not affect the interest you have already earned. Therefore, your annuity using the annual reset method may credit more interest than annuities using other methods when the index fluctuates up and down often during the term. This design is more likely than others to give you access to index-linked interest before the term ends.	Your annuity's participation rate may change each year and generally will be lower than that of other indexing methods. Also an annual reset design may use a cap or averaging to limit the total amount of interest you might earn each year.
High-Water Mark	
Since interest is calculated using the highest value of the index on a contract anniversary during the term, this design may credit higher interest than some other designs if the index reaches a high point early or in the middle of the term, then drops off at the end of the term.	Interest is not credited until the end of the term. In some annuities, if you surrender your annuity before the end of the term, you may not get index-linked interest for that term. In other annuities, you may receive index-linked interest, based on the highest anniversary value to date and the annuity's vesting schedule. Also, contracts with this design may have a lower participation rate than annuities using other designs or may use a cap to limit the total amount of interest you might earn.
Low-Water Mark	
Since interest is calculated using the lowest value of the index prior to the end of the term, this design may credit higher interest than some other designs if the index reaches a low point early or in the middle of the term and then rises at the end of the term.	Interest is not credited until the end of the term. With some annuities, if you surrender your annuity before the end of the term, you may not get index-linked interest for that term. In other annuities, you may receive index-linked interest based on a comparison of the lowest anniversary value to date with the index value at surrender and the annuity's vesting schedule. Also, contracts with this design may have a lower participation rate than annuities using other designs or may use a cap to limit the total amount of interest you might earn.
Point-to-Point	
Since interest cannot be calculated	Since interest is not credited until the

before the end of the term, use of this design may permit a higher participation rate than annuities using other designs.

end of the term, typically six or seven years, you may not be able to get the index-linked interest until the end of the term.

WHAT IS THE IMPACT OF SOME OTHER EQUITY-INDEXED ANNUITY PRODUCT FEATURES?

Cap on Interest Earned

While a cap limits the amount of interest you might earn each year, annuities with this feature may have other product features you want, such as annual interest crediting or the ability to take partial withdrawals. Also, annuities that have a cap may have a higher participation rate.

Averaging

Averaging at the beginning of a term protects you from buying your annuity at a high point, which would reduce the amount of interest you might earn. Averaging at the end of the term protects you against severe declines in the index and losing index-linked interest as a result. On the other hand, averaging may reduce the amount of index-linked interest you earn when the index rises either near the start or at the end of the term.

Participation Rate

The participation rate may vary greatly from one annuity to another and from time to time within a particular annuity. Therefore, it is important for you to know how your annuity's participation rate works with the indexing method. A high participation rate may be offset by other features, such as simple interest, averaging, or a point-to-point indexing method. On the other hand, an insurance company may offset a lower participation rate by also offering a feature such as an annual reset indexing method.

Interest Compounding

It is important for you to know whether your annuity pays compound or simple interest during a term. While you may earn less from an annuity that pays simple interest, it may have other features you want, such as a higher participation rate.

WHAT WILL IT COST ME TO TAKE MY MONEY OUT BEFORE THE END OF THE TERM?

In addition to the information discussed in this Buyer's Guide about surrender and withdrawal charges and free withdrawals, there are additional considerations for equity-indexed annuities. Some annuities credit none of the index-linked interest or only part of it if you take out money before the end of the term. The percentage that is vested, or credited, generally increases as the term comes closer to its end and is always 100% at the end of the term.

ARE DIVIDENDS INCLUDED IN THE INDEX?

Depending on the index used, stock dividends may or may not be included in the index's value. For example, the S&P 500 is a stock price index and only considers the prices of stocks. It does not recognize any dividends paid on those stocks.

HOW DO I KNOW IF AN EQUITY-INDEXED ANNUITY IS RIGHT FOR ME?

The questions listed below may help you decide which type of annuity, if any, meets your retirement planning and financial needs. You should consider what your goals are for the money you may put into the annuity. You need to think about how much risk you're willing to take with the money. Ask yourself:

- Am I interested in a variable annuity with the potential for higher earnings that are not guaranteed and willing to risk losing the principal?
- Is a guaranteed interest rate more important to me, with little or no risk of losing the principal?
- Or, am I somewhere in between these two extremes and willing to take some risks?

HOW DO I KNOW WHICH EQUITY-INDEXED ANNUITY IS BEST FOR ME?

As with any other insurance product, you must carefully consider your own personal situation and how you feel about the choices available. No single annuity design may have all the features you want. It is important to understand the features and trade-offs available so you can choose the annuity that is right for you. Keep in mind that it may be misleading to compare one annuity to another unless you compare all the other features of each annuity. You must decide for yourself what combination of features makes the most sense for you. Also remember that it is not possible to predict the future behavior of an index.

QUESTIONS YOU SHOULD ASK YOUR AGENT OR THE COMPANY

You should ask the following questions about equity-indexed annuities in addition to the questions in the Buyer's Guide to Fixed Deferred Annuities.

- How long is the term?
- What is the guaranteed minimum interest rate?
- What is the participation rate? For how long is the participation rate guaranteed?
- Is there a minimum participation rate?
- Does my contract have an interest rate cap? What is it?
- Does my contract have an interest rate floor? What is it?
- Is interest rate averaging used? How does it work?
- Is interest compounded during a term?
- Is there a margin, spread, or administrative fee? Is that in addition to or instead of a participation rate?
- What indexing method is used in my contract?
- What are the surrender charges or penalties if I want to end my contract early and take out all of my money?
- Can I get a partial withdrawal without paying charges or losing interest? Does my contract have vesting? If so, what is the rate of vesting?

Final Points to Consider

Remember to read your annuity contract carefully when you receive it. Ask your agent or insurance company to explain anything you don't understand. If you have a specific complaint or can't get answers you need from the agent or company, contact your state insurance department.

IMPROVING ANNUITY DISCLOSURE

A LIFE INSURANCE INDUSTRY INITIATIVE

Templates, guidelines, and instructions for life insurers to prepare disclosure documents for fixed, index, and variable annuities

The American Council of Life Insurers is a Washington, D.C.-based trade association, whose 353 members account for 93 percent of the life insurance industry's total assets in the United States. ACLI member companies offer life insurance; annuities; pensions, including 401(k) plans; long-term care insurance; disability income insurance; reinsurance; and other retirement products.

NAVA, Inc., the Association for Insured Retirement Solutions, is a non-profit trade association located in suburban Washington, D.C. NAVA provides a variety of services to the industry including educational forums, research, and conferences aimed at furthering the development and understanding of fixed and variable annuities, income annuities, and variable life insurance.

CONTENTS

INTRODUCTION

Everyone agrees that retirement today requires more planning than in previous generations. Americans are living longer, fewer workers are covered by traditional pension plans that guarantee an income for life, and Social Security likely won't provide the same level of benefits in the future as it does today.

Americans need ways to create and guarantee lifetime income so their standard of living does not decline with age. For many Americans, an annuity can help them achieve that goal. However, most consumers don't understand how an annuity works, its benefits and risks, and what their commitments are under an annuity contract.

In January 2005, ACLI's Board of Directors took steps to bridge this information gap for fixed, index, and variable annuities. A CEO-level task force was formed to develop recommendations to address the widespread criticism that annuities are misunderstood by consumers. Their first recommendations were to give increased attention to suitability and initiate an industry-wide emphasis on consumer empowerment through improved disclosure.

In the area of suitability, ACLI fully supported the NAIC recommendation to expand the Senior Protection in Annuity Transactions Model Regulation to apply to all ages. The NAIC adopted this change in June 2006, and ACLI has been actively pursuing uniform adoption of the expanded model (Suitability in Annuity Transactions) in the states.

With regard to improved disclosure, ACLI has been pursuing state adoption of the NAIC Annuity Disclosure Model Regulation. The model—developed nearly a decade ago, but not widely adopted—provides the necessary base for improved understanding of annuities. However, the companies that comprise both ACLI and NAVA—an alliance of companies involved in the annuity and variable products industry—agreed that the development of short, simple, and standardized disclosure documents that are company and product specific was an essential next step to further assist consumers in their purchasing decisions.

ACLI and NAVA—working closely with member companies—joined together to develop a set of "templates" for presenting required disclosure information in a consumer-friendly manner. Disclosure templates for fixed and index annuities are based on the requirements set forth in NAIC's disclosure model regulation. The template for variable annuity products follows disclosure requirements under federal securities laws.

These templates were used to produce sample documents based on actual annuity products. The samples were tested in a series of focus groups and one-on-one interviews with retirees, baby boomers, and producers. The responses from all three groups was overwhelmingly positive. After each set of groups and interviews, recommendations were incorporated into the samples and retested.

As directed by its Board of Directors, ACLI has been meeting with federal and state regulators to have the templates become part of the regulatory regime. The templates have been well received by regulators.

The Iowa Division of Insurance will be the first state to launch a pilot program—beginning January 31, 2008—to introduce the templates to the marketplace. ACLI is hopeful other states will follow suit and embrace the templates as the preferred method of satisfying annuity disclosure requirements.

ACLI continues to work with the Securities and Exchange Commission and the Financial Industry Regulatory Authority to achieve regulatory acceptance of the variable annuity template in connection with federal disclosure and sales practice standards.

In addition to ACLI and NAVA, this industry initiative has the full support of the National Association of Insurance and Financial Advisors.

GENERAL GUIDELINES FOR WRITING READABLE DISCLOSURES

Measures of Readability

Writing More Readable Disclosures

Web Pages

GENERAL GUIDELINES FOR WRITING READABLE DISCLOSURES

The following guidelines were developed by Brenda J. Cude, Ph.D., Professor of Housing and Consumer Economics, at the University of Georgia. Dr. Cude is an expert on consumer protection and behavior whose interests focus on how consumers acquire and use information before making buying decisions. She represents the consumer perspective in policy discussions at national meetings of insurance regulators.

Effective writing for a general audience means writing in plain language. Adult literacy levels are relatively low; Adkins and Ozanne report that more than one-fifth of the U.S. adult population is functionally illiterate (lacks reading and writing skills needed to meet daily demands) and another 34 percent is marginally literate.[1] In addition, even literate people may read information too quickly to understand it or may not read it at all if it appears too complex.

Measures of Readability

There are two widely-used measures of readability: the Flesch Reading Ease Score and the Flesch-Kincaid Grade Level. Each is calculated based on a formula that uses average sentence length and average number of words per sentence. The Flesch Reading Ease Score ranges from 0 to 100, with a higher score indicating easier reading. The Flesch-Kincaid Grade Level formula converts the Flesch Reading Ease score to a U.S. grade school level.[2] Over one-half of the adult population has reading skills below sixth grade.[3] Recent versions of Microsoft Word calculate both the Flesch Reading Ease Score and the Flesch-Kincaid Grade Level.

Alternate measures of readability recognize other elements that affect readability. The FOG (Frequency of Gobbledygook) Index is based on average sentence length and the percentage of words with three or more syllables.[4] There's also a SMOG (Simple Measure of Gobbledygook) Index.[5]

The Cloze Test is a measure of how well "average" consumers understand written material. To use the Cloze Test delete every fifth word and ask one or more persons to fill in the blanks. If the information is well written, the reader should be able to fill in at least 60 percent of the blanks based on the rest of the sentence. If the reader can't complete at least 40 percent of the blanks, the information probably needs to be rewritten.[6]

Writing More Readable Disclosures

This section outlines a number of rules for writing more readable disclosures. An important resource used in writing this section was http://www.plainlanguage.gov.[7]

- Write for the average reader.
  - Know the expertise and interest of your average reader and write to that person. Pretest information with the average reader before releasing it publicly.
  - Don't write to the experts, the lawyers, or management, unless they are the intended audience.
  - Use common, everyday words.
- Organize to meet the needs of the reader.
  - Create a plan for organizing your document (most general to most specific, chronological, etc.) and explain to the reader how you've organized the document and how to use it.
  - Use descriptive headings to help your reader find specific information more easily.
  - Summarize complicated topics before you describe all the details.
  - Put items of most interest to your reader at the beginning.

- Include only the information your reader needs. Too much information and too much detail make it hard for consumers to find the important information.
- Use headings and make the headings useful.
  - Headings help the reader find their way through the material. Adults read to solve problems and answer questions. Headings help them find the information they need. A question format for headings is often a good way to help the reader find information.
  - Headings should describe all of the material under the heading. If they don't, you need more headings.
  - Every page should have at least one heading and most should have more than one. Don't use more than two or three subordinate levels of headings.
  - Headings should be visually different from the rest of the text and easy to identify. That's most likely to happen if the headings are relatively short—just a few words.
- Use "you" and other pronouns to help the reader understand the information.
  - Use pronouns to pull readers into the disclosure and make it more meaningful to them.
  - In a question, refer to the reader as I ("how do I," "how is my annuity"). In the answer, refer to the reader as you ("your annuity"). Refer to the company as "we" or use the name of the insurance company. Don't use the generic "insurer" or "company."
- Use active voice.
  - Writing in active voice is the single most powerful change to improve readability.
  - Use active voice to clarify who is doing what. If you use passive voice, who is doing what is often unclear.
  - Active voice is generally shorter, as well as clearer.
  - Active sentences are structured with the actor first (as the subject), then the verb, then the object of the action. (For example: You can't take any of the money out of your annuity after the payout begins, NOT A full surrender of your contract can be made at any time before payouts begin.)
- Use short sentences and short sections.
  - Use short sentences, paragraphs, and sections to help your reader get through the material. Long dense text with few headings increases the odds the reader will get lost.
  - If you "chunk" the information using columns, headings, and/or bullets, your document will have more white space. White space opens your document visually and makes it more appealing
  - Sentences should average 15 to 20 words and never be longer than 40 words.
  - Use the simplest tense possible. Use base verbs, not nominalizations (hidden verbs).
  - The simplest verb tense is the clearest and strongest; use simple present tense whenever possible. For example, say, "We credit interest every quarter," not "We will be crediting interest every quarter."
  - A nominalization is a verb that has been turned into a noun. For example, say, "We manage your investment portfolio" and "We analyze data," not "We are responsible for management of your investment portfolio" or "We conduct an analysis of the data."

- Eliminate all excess words.
  - Challenge every word—do you need it?
  - Use pronouns, active voice, and base verbs to eliminate excess words.
  - Eliminate all unnecessary modifiers. For example, in "The two groups issued a joint report," "joint" isn't necessary. In "this information is really critical," "really" isn't necessary.
- Use concrete familiar words.
  - Big words and unfamiliar words don't impress people; they confuse them.[8]
  - If your contract uses a unique term to refer to a contract feature, use that term but include a definition in parentheses after.
  - Use the term premium to refer to money the consumer pays you. Use the term payout to refer to money you pay the consumer.
  - If the contract uses another term for payout, the first time it appears put the other term in the disclosure followed by payout in parentheses. After the first time, use the generic term payout.
  - If the contract uses another term for surrender charge, the first time it appears in the disclosure, put the other term followed by surrender charge in parentheses. After the first time, use the generic term surrender charge. (Example: XYZ Life Insurance Company takes a contingent deferred sales charge (also known as a surrender charge).)
  - Put important terms in bold font the first time you use them. Be selective about what terms you consider important and thus put in bold font; if too many words are in bold, the technique loses its effectiveness.
  - Define (and limit) abbreviations.
  - Avoid jargon, foreign terms, Latin terms, and legal terms.
  - Don't use "and/or" or multiple negatives.
- Use "must" to state requirements. Avoid using the more ambiguous "shall."
  - "Shall" is ambiguous and a word we rarely use in everyday conversation.
  - "Must" (not "shall") is the clearest way to express a requirement or obligation.[9]
- Place words carefully.
  - Placing words carefully within a sentence is as important as organizing your document effectively.
  - Keep subject, verb, and object close together; put exceptions at the end.
- Use lists and tables to simplify information.
  - Lists and tables are one way to explain complex material in less space.
  - Lists and tables give the document more white space and make it more appealing to the reader.
  - If you use a table, explain the table. An example using information from the table is a good way to explain the table.

- Pay attention to format.
  - Make notes to text and tables less visually important than the text. One way to do that is to use a smaller font for notes.
  - Avoid "mice type" (small print) for important information.
  - Serif fonts such as Times and Times New Roman are generally considered most readable but there are ways to make any font more or less readable.[10] For example, each of the fonts below is 12 point but there's an obvious difference in readability.

    For example (Arial)
    For example (Bookman Old Style)
    For example (Arial Narrow)
    For example (Gil Sans MT Condensed)

  - Don't overuse **BOLD** and all **CAPITAL** letters for **EMPHASIS.**
  - Every page should have at least one heading—and most should have more.
  - "Chunk" the information using columns, headings, and/or bullets in your document to create more white space.
  - Use lists and tables to explain complex information.

Web Pages

Most of the preceding information applies to Web pages as well. Online, most people are looking for information to answer immediate questions. They scroll and scan pages looking for information and don't want to read much. These preferences suggest:[11]

- Break documents into separate topics.
- Use even shorter paragraphs than on paper.
- Use even more lists than on paper.
- Use even more headings with less under each heading.
- Keep the information on each page to no more than two levels; the Web has little room for indenting or showing levels of headings.
- Questions often make great headings because users come to the Web with questions in mind.

And, some thoughts on fonts online:[12]

- Use real text rather than text within graphics.
- Select basic, simple, easily-readable fonts.
- Use a limited number of fonts.
- Ensure sufficient contrast between the text and the background.
- Avoid small font sizes.
- Use relative units for font size.
- Limit the use of font variations such as bold, italics, and ALL CAPITAL LETTERS.
- Don't rely only on the appearance of the font (color, shape, font variation, placement, etc.) to convey meaning.
- Avoid blinking or moving text.

Notes

[1]Adkins, N.R., & Ozanne, J.L. (2005, June). The low literate consumer. *Journal of Consumer Research,* 12, 93-105.

[2]See Coh-Metrix, University of Memphis Department of Psychology at http://csep.psyc.memphis.edu/cohmetrix/readabilityresearch.htm or Readability Info at http://www.readability.info/ for more information.

[3]National Adult Literacy Survey 1992 at http://nces.ed.gov/naal/.

[4]See "Writing Tips" at http://process.umn.edu/groups/ppd/documents/information/Writing_Tips.cfm.

[5]See SMOG Index at http://en.wikipedia.org/wiki/SMOG_Index and a link to an online calculator to create a SMOG Index.

[6]Hochhauser, M. (2001-2005). Take the Cloze Test: Readability of a Financial Privacy Policy. Privacy Rights Clearinghouse. Available at http://www.privacyrights.org/fs/fs24b-ClozeFinancial.htm.

[7]The organization of this section follows the organization of the online Power Point presentation, "Writing in Plain Language on the TriCare Site" at http://www.tricare.osd.mil/webmaster/Plain-Language-Rules-Web-Toolkit-2005-07-27.ppt.

[8]For a list of complex words and simpler alternatives, visit http://employees.faa.gov/worktools/correspondence_writing/writing_resources/simple_words/index.cfm.

[9]For information about plain language in the legal sector, visit http://www.plainlanguage.gov/examples/legal/index.cfm.

[10]See http://www.webaim.org/techniques/fonts/ for more information about fonts.

[11]From "Writing in Plain Language on the TriCare Site" at http://www.tricare.osd.mil/webmaster/Plain-Language-Rules-Web-Toolkit-2005-07-27.ppt.

[12]From WebAIM.org at http://www.webaim.org/techniques/fonts/.

FIXED ANNUITY DISCLOSURE MATERIALS

How to Complete the Template for a Fixed Annuity Disclosure

Example 1A: Template for a Fixed Annuity Disclosure

Example 1B: Sample of a Fixed Annuity Disclosure

HOW TO COMPLETE THE TEMPLATE FOR A FIXED ANNUITY DISCLOSURE

The following is a guide to writing a disclosure for a fixed annuity. It includes general suggestions for writing statements; the types of information that should be covered under each required section, the headings to be used and questions to be answered; and in some cases, provides suggested language that can be used.

Example 1A on page 11 shows a graphic of a fixed annuity disclosure template; Example 1B on pages 12–13 is a sample of what an actual product disclosure may look like. Companies are encouraged to follow the language used in the sample where possible. Disclosure documents should be kept short (preferably two pages).

Suggestions for Writing Statements

- Make a clear distinction about whether a statement is true of all annuities ("an annuity") or all annuities of this type ("a deferred annuity") or this product ("this annuity," "this deferred annuity").
- In a question, refer to the reader as I (my annuity). In the answer, refer to the reader as you (your annuity). Refer to the company as "we" or use the name of the insurance company. Don't use the generic "insurer" or "company."
- Avoid statements that don't give specific information or don't give the reader information to find specific information. For example, "Interest is credited to your account" is a general statement that isn't very useful. "Interest is credited to your account daily" is a specific statement of information as is "Page 23 of your contract explains the different ways that interest may be credited to your account."
- Use specific terms (i.e. surrender) from your contract in the disclosure but include a definition in parentheses after.
- Put important terms in bold font the first time you use them. Be selective about what terms you consider important. If too many words are in bold, the technique loses its effectiveness.
- If you refer the reader to the contract for more information, be specific about what information is there and exactly where to find it (e.g. use page numbers or section titles).
- The phrasing "includes" (i.e. "Your options include") suggest there are other options not stated here. If you've stated all of the options, say "Your options are." If you plan to add options later, say, "Your options now are."
- The term "annuity" is easier for consumers to understand than "contract." Use "annuity contract" when you're referring the consumer to the written contract. Don't use the word policy to describe an annuity.
- When possible, present information in a bulleted list with a brief description and refer to a specific page number or heading in the contract for more information.
- Disclosure documents should be kept short (preferably two pages).

SECTION 1: INTRODUCTION

- Include your company name and name of the product at the top of the page. A company logo also may be inserted.
- Include statements that briefly explain each of the major features of the annuity. (Suggested language: This annuity is tax-deferred, which means you don't pay taxes on the interest it earns until the money is paid to you. This annuity is fixed, which means it earns a specified interest rate during the guaranteed period.)
- Specify if the annuity is single-premium or flexible premium. (Suggested language: This annuity is single-premium which means you buy it with one premium (payment) **or** flexible premium, which means you can purchase it with multiple payments).
- Include a statement that the buyer can use an annuity for lifetime income but it is not meant for short-term goals. (Suggested language: You can use an annuity to save money for retirement and to receive retirement income for life. It is not meant to be used to meet short-term financial goals.)

SECTION 2: THE ANNUITY CONTRACT

How will the value of my annuity grow?

- Explain how the annuity earns interest, clearly distinguishing between guaranteed, nonguaranteed, and determinable elements, including their limitations.
- Explain any guarantees and the factors that affect the guarantees.
- Explain how and when interest is credited to the account.

Suggestions for writing statements in this section:

- When you use a table, explain the table. An example using information from the table is a good way to explain the table.

SECTION 3: BENEFITS

How do I get income from my annuity?

- Outline choices in payout options, including whether there is a specified maturity date.
- Describe options and restrictions on withdrawing money from the annuity.

Suggestions for writing statements in this section:

- Use the terms that are in the contract for payout options, but include a clear explanation of each.
- If the contract uses another term for payout, the first time it appears put the other term in the disclosure followed by payout in parenthesis. After the first time, use the generic term payout.
- Use the term premium to refer to money the consumer pays you. Use the term payout to refer to money you pay the consumer.

What happens after I die?

- Describe what happens if the owner (and annuitant if different) dies before and after the company starts to pay income from the annuity and any choices the owner will be asked to make.

What other benefits can I choose?

- List any optional riders that affect payouts and withdrawals and briefly describe each.

SECTION 4: FEES, EXPENSES & OTHER CHARGES

What happens if I take out some or all of the money from my annuity?

This section should outline:

- The amount of surrender charges and when they are paid.
- Any other charges or adjustments in the amount received when taking money from an annuity.
- Any other fees, including contract fees and annual service fees, the amounts, and when and how they are collected.

Suggestions for writing statements in this section:

- If the contract uses another term for surrender charge, the first time it appears in the disclosure, put the other term followed by surrender charge in parentheses. After the first time, use the generic term surrender charge. (Example: ABC Life Insurance Company takes a contingent deferred sales charge (also known as a surrender charge).
- State surrender charges in a table format and include an example to explain the table.
- Include an explanation of the market value adjustment, if applicable. (Suggested language: When you make a withdrawal, we also may increase or decrease the amount you receive based on a market value adjustment (MVA). If interest rates went up after you bought your annuity, the MVA likely will decrease the amount you receive. If interest rates went down, the MVA likely will increase the amount you receive.)

Do I pay any other fees or charges?

- Outline any other fees or charges that apply to the annuity.

Suggestions for writing statements in this section:

- When you use a table, include an example to explain the table.

SECTION 5: TAXES

How will payouts and withdrawals from my annuity be taxed?

This section should outline:

- The meaning of tax-deferred (Suggested language: This annuity is tax-deferred, which means you don't pay taxes on the interest it earns until the money is paid to you. When you take payouts or make a withdrawal, you pay ordinary income taxes on the earned interest. You also pay a 10% federal income tax penalty on earnings you withdraw before age 59 1/2.)
- If your company takes premium taxes from withdrawals or payouts, include a statement describing the deduction. (Suggested language: If your state imposes a premium tax, it will be deducted from the money you receive.)
- That one tax-deferred annuity can be exchanged for another without paying taxes on earnings. (Suggested language: You can exchange one tax-deferred annuity for another without paying taxes on the earnings when you make the exchange. Before you do, compare the benefits, features, and costs of the two annuities.)

Does buying an annuity in a retirement plan provide extra tax benefits?

- Explain that there are no tax advantages to buying an annuity as part of a retirement plan. (Suggested language: Buying an annuity within an IRA, 401(k), or other tax-deferred retirement plan doesn't give you any extra tax benefits. Choose your annuity based on its other features and benefits as well as its risks and costs, not its tax benefits.)

SECTION 5: OTHER INFORMATION

What else do I need to know?

All disclosures should include the following statements, which are included in the templates, modified as needed to match your situation.

- We may change your annuity contract from time to time to follow federal or state laws and regulations. If this happens, we'll tell you about the changes in writing.
- We pay the agent, broker, or firm for selling the annuity to you.
- Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract (page x) to learn about your free look period. (Or replace suggested language with state and company specific information about free look.)

Include in this section other important information that doesn't appear elsewhere, such as what happens if the annuitant doesn't choose a payout option and information about the impact of riders.

What should I know about the insurance company?

- Provide a general description of the company as well as all contact information, including an address, phone number, Web site, and e-mail address (as applicable). You also may consider including financial strength ratings.

EXAMPLE 1A

Template for a Fixed Annuity Disclosure

Example 1A shows how to group disclosure material into sections and in two-column format. Disclosure documents should be short (preferably two pages). The template also includes the section headings that are to be used, the questions that need to be answered, and provides suggested language that can be used.

SECTION 1

[COMPANY NAME]
[PRODUCT NAME] Disclosure

This document reviews important points to think about before you buy this [COMPANY NAME] annuity. [INSERT AS APPROPRIATE: IT IS A SINGLE-PREMIUM ANNUITY WHICH MEANS YOU BUY IT WITH ONE PREMIUM (PAYMENT) *OR* FLEXIBLE PREMIUM ANNUITY WHICH MEANS YOU CAN PURCHASE IT WITH MULTIPLE PAYMENTS.]

This annuity is fixed, which means it earns a specified interest rate during the guaranteed period. This annuity is **tax-deferred,** which means you don’t pay taxes on the interest it earns until the money is paid to you.

You can use an annuity to save money for retirement and to receive retirement income for life. It is **not** meant to be used to meet short-term financial goals.

If you have questions about this annuity, please ask your agent, broker, advisor, or contact a company representative using the toll-free number provided below.

SECTION 2

THE ANNUITY CONTRACT

How will the value of my annuity grow?

SECTION 3

BENEFITS

How do I get income from my annuity?

What happens after I die?

What other benefits can I choose?

SECTION 4

FEES, EXPENSES & OTHER CHARGES

What happens if I take out some or all of the money from my annuity?

Do I pay any other fees or charges?

SECTION 5

TAXES

How will payouts and withdrawals from my annuity be taxed?

Does buying an annuity in a retirement plan provide extra tax benefits?

SECTION 6

OTHER INFORMATION

What else do I need to know?

- We may change your annuity contract from time to time to follow federal or state laws and regulations. If we do, we'll tell you about the changes in writing.
- We pay the agent, broker, or firm for selling the annuity to you.
- Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract [INSERT PAGE NUMBER] to learn about your *free look* period. [OR REPLACE SUGGESTED LANGUAGE WITH STATE AND COMPANY SPECIFIC INFORMATION ABOUT FREE LOOK.]

What should I know about the insurance company?

EXAMPLE 1B

Sample of a Fixed Annuity Disclosure

Example 1B is a sample of how a final disclosure document might look. This a only a sample and is not intended to serve as a model disclosure for all types of annuities. Disclosure documents for each company and product will vary. Disclosure documents should be kept short (preferably two pages).

Fixed Single-Premium Deferred Annuity Disclosure

XYZ LIFE INSURANCE

This document reviews important points to think about before you buy this XYZ Insurance Company annuity. This annuity is single-premium which means you buy it with one premium (payment). It is a fixed annuity which means it earns a specified interest rate during the guaranteed period. This annuity is **tax-deferred,** which means you don't pay taxes on the interest it earns until the money is paid to you.

You can use an annuity to save money for retirement and to receive retirement income for life. It is **not** meant to be used to meet short-term financial goals.

If you have questions about this annuity, please ask your agent, broker, or advisor, or contact a company representative at 800–123–4567.

THE ANNUITY CONTRACT

How will the value of my annuity grow?
Your annuity earns **tax-deferred** interest at a **guaranteed minimum rate** for a **guaranteed period.** When you buy your annuity, you choose a guaranteed period of 5, 6, 7, 8, 9, or 10 years. The guaranteed rate depends on the guaranteed period you choose and current interest rates in the market. Interest compounds daily and is credited to your annuity account on the last day of each month.

Within 30 days after the end of each guaranteed period, you choose a new guaranteed period or surrender (cancel and withdraw the money from) your annuity. If you do nothing, a new guaranteed period begins that is the same length as the one before. The new guaranteed rate depends on the length of the new guaranteed period and current market rates. Interest compounds daily at the new rate in the new period.

The account value of your annuity cannot go down.

BENEFITS

How do I get income (payouts) from my annuity?
When you apply for your annuity, you choose a payout commencement date—when you start to get income from your annuity. You also choose how to get the income—the payout option. Your choices now are:

- **Life:** Guarantees income for as long as you live.
- **Joint and survivor life:** Guarantees income for as long as you or your joint annuitant (usually a spouse) live.
- **Life income with period certain:** Guarantees income for as long as you live. If you die within the "period certain" (usually 10 or 20 years), it pays income to your beneficiary for the rest of the period.
- **Designated period of time:** Pays income for that period.
- **Lump sum:** One payout.

You may change both the start date and the payout option up until payout begins. After that, you can't make any changes.

What happens after I die?
If you die before we start to pay you income from your annuity, we pay the value of your annuity to your beneficiary. If you die after the payouts start, depending on the type of payout you chose, we pay the remaining value in the annuity, if any, to your beneficiary.

FEES, EXPENSES & OTHER CHARGES

What happens if I take out some or all of the money from my annuity?
You can't take any of the money out of your annuity after the payout begins. Before it begins, you can take out all of your annuity's value **(full surrender)** or part of it **(partial surrender)**. You can take a partial surrender as long as the amount you take is at least $1,000 and you leave at least $5,000 in the account.

We take a **contingent deferred sales charge (also known as a surrender charge)** from amounts you withdraw before the end of the seventh contract year. Here's how the charge is calculated:

Contract year	1	2	3	4	5	6	7	8+
Surrender charge	7%	6%	5%	4%	3%	2%	1%	0

Example: If you withdraw $5,000 from your annuity in the third year contract year, your surrender charge is $5,000 x 0.05 = $250. If you take out any amount after the end of the seventh contract year, there's no charge.

When you make a withdrawal, we also may increase or decrease the amount you receive based on a **market value adjustment (MVA)**. If interest rates went up after you bought your annuity, the MVA likely will decrease the amount you receive. If interest rates went down, the MVA likely will increase the amount you receive.

Exceptions: In some cases, we may waive the surrender charge or the market value adjustment. For example, there's no surrender charge if we pay the remaining value of your annuity to a beneficiary after your death.

Do I pay any other fees or charges?
No. There aren't any other fees or charges on this annuity. Also, you pay only one premium for your annuity

TAXES

How will payouts and withdrawals from my annuity be taxed?
This annuity is tax-deferred, which means you don't pay taxes on the interest it earns until the money is paid to you. When you take payouts or make a withdrawal, you pay ordinary income taxes on the earned interest. You also pay a 10% federal income tax penalty on earnings you withdraw before age 59 1/2. If your state imposes a premium tax, it will be deducted from the money you receive.

You can exchange one tax-deferred annuity for another without paying taxes on the earnings when you make the exchange. Before you do, compare the benefits, features, and costs of the two annuities. You may pay a surrender charge if you make the exchange during the first seven years you own the annuity. Also, you may pay a surrender charge if you make withdrawals from the new annuity during the first years you own it.

Does buying an annuity in a retirement plan provide extra tax benefits?
Buying an annuity within an IRA, 401(k), or other tax-deferred retirement plan doesn't give you any extra tax benefits. Choose your annuity based on its other features and benefits as well as its risks and costs, not its tax benefits.

OTHER INFORMATION

What else do I need to know?

- Once you start to receive your payouts, you can't surrender your annuity.
- If you don't choose an annuity payout option, we start payouts on the starting date you chose and continue them for 120 months (10 years).
- We may change your annuity contract from time to time to follow federal or state laws and regulations. If we do, we'll tell you about the changes in writing.
- We pay the agent, broker, or firm for selling the annuity to you.
- Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract (page x) to learn about your **free look** period.

What should I know about the insurance company?
XYZ Life Insurance Company offers a wide variety of retirement and financial security products, including life insurance, annuities, long-term care, and disability income insurance. We also are a leading provider of products and services to workplace-based pension plans—both defined contribution and defined benefit plans. Our financial strength ratings are: A+ (A.M. Best); AA (S&P); Aa3 (Moody's); and AA+ (Fitch).

XYZ Life Insurance Company
123 Main Street
Your Town USA
Telephone: 800–123–4567
http://www.xyzlife.com

XYZ LIFE INSURANCE

INDEX ANNUITY DISCLOSURE MATERIALS

How to Complete the Template for an Index Annuity Disclosure

Example 2A: Template for an Index Annuity Disclosure

Example 2B: Sample of an Index Annuity Disclosure

How to Complete the Template for Depicting Indexed Interest

Example 2C: Template for Depiction of Indexed Interest

Example 2D: Sample of Depiction of Indexed Interest

HOW TO COMPLETE THE TEMPLATE FOR AN INDEX ANNUITY DISCLOSURE

The following is a guide to writing a disclosure for an index annuity. It includes general suggestions for writing statements; the types of information that should be covered under each required section, the headings to be used and questions to be answered; and in some cases, provides suggested language that can be used.

Example 2A on page 19 shows a graphic of an index annuity disclosure template; Example 2B on pages 20–21 is an example of what an actual product disclosure may look like. Companies are encouraged to follow the language used in the sample where possible. Disclosure documents should be kept short (preferably two pages).

Suggestions for Writing Statements

- Make a clear distinction about whether a statement is true of all annuities ("an annuity") or all annuities of this type ("a deferred annuity") or this product ("this annuity," "this deferred annuity").
- In a question, refer to the reader as I (my annuity). In the answer, refer to the reader as you (your annuity). Refer to the company as "we" or use the name of the insurance company. Don't use the generic "insurer" or "company.
- Avoid statements that don't give specific information or don't give the reader information to find specific information. For example, "Interest is credited to your account" is a general statement that isn't very useful. "Interest is credited to your account daily" is a specific statement of information as is "Page 23 of your contract explains the different ways that interest may be credited to your account."
- Use specific terms (i.e. surrender) from your contract in the disclosure but include a definition in parentheses after.
- Put important terms in bold font the first time you use them. Be selective about what terms you consider important. If too many words are in bold, the technique loses its effectiveness.
- If you refer the reader to the contract for more information, be specific about what information is there and exactly where to find it (e.g. use page numbers or section titles).
- The phrasing "includes" ("Your options include") suggest there are other options not stated here. If you've stated all of the options, say "Your options are." If you plan to add options later, say, "Your options now are."
- The term "annuity" is easier for consumers to understand than "contract." Use "annuity contract" when you're referring the consumer to the written contract. Don't use the word policy to describe an annuity.
- When possible, present information in a bulleted list with a brief description and refer to a specific page number or heading in the contract for more information.
- Disclosure documents should be kept short (preferably two pages).

SECTION 1: INTRODUCTION

- Include your company name and name of the product at the top of the page. A company logo also may be inserted.
- Include statements that briefly explain each of the major features of the annuity. (Suggested language: This annuity is tax-deferred, which means you don't pay taxes on the interest it earns until the money is paid to you. This annuity can earn interest in two ways: 1) interest that is guaranteed in the first year and can't go below [Insert Rate/Percentage] after that, and 2) interest that depends on how one or more market indexes perform.)
- Specify if the annuity is single premium or flexible premium. (Suggested language: This annuity is single-premium which means you buy it with one premium (payment) **or** flexible premium which means you can purchase it with multiple payments.)
- Include a statement that the buyer can use an annuity for lifetime income but it is not meant for short-term goals. (Suggested language: You can use an annuity to save money for retirement and to receive retirement income for life. It is not meant to be used to meet short-term financial goals.)

SECTION 2: THE ANNUITY CONTRACT

How will the value of my annuity grow?

- Explain how the annuity earns interest, clearly distinguishing between guaranteed, nonguaranteed, and determinable elements, including their limitations.
- Explain any guarantees and the factors that affect the guarantees.
- Explain how and when interest is credited to the account, including a depiction explaining the interest crediting strategy. (The depiction should be attached to the two-page disclosure document as supplemental material. A guide and template for developing the depiction are on pages 22–23.)
- Explain any caps or floors on interest and how they work.

Suggestions for writing statements in this section:

- When you use a table, explain the table. An example using information from the table is a good way to explain the table.

SECTION 3: BENEFITS

How do I get income from my annuity?

- Outline choices in payout options, including whether there is a specified maturity date.
- Describe options and restrictions on withdrawing money from the annuity.

Suggestions for writing statements in this section:

- Use the terms that are in the contract for payout options, but include a clear explanation of each.
- If the contract uses another term for payout, the first time it appears put the other term in the disclosure followed by payout in parenthesis. After the first time, use the generic term payout.
- Use the term premium to refer to money the consumer pays you. Use the term payout to refer to money you pay the consumer.

What happens after I die?

- Describe what happens if the owner (and annuitant if different) dies before and after the company starts to pay income from the annuity and any choices the owner will be asked to make.

What other benefits can I choose?

- List any optional riders that affect payouts and withdrawals, briefly describe each, and refer to specific page numbers in the contract for more information.

SECTION 4: FEES, EXPENSES & OTHER CHARGES

What happens if I take out some or all of the money from my annuity?

This section should outline:

- The amount of surrender charges and when they are paid.
- Any other charges or adjustments in the amount received when taking money from an annuity.
- Any other fees, including contract fees and annual service fees, the amounts, and when and how they are collected.

Suggestions for writing statements in this section:

- If the contract uses another term for surrender charge, the first time it appears in the disclosure, put the other term followed by surrender charge in parentheses. After the first time, use the generic term surrender charge. (Example: XYZ Life Insurance Company takes a contingent deferred sales charge (also known as a surrender charge)…).
- State surrender charges in a table format and include an example to explain the table.
- Include an explanation of the market value adjustment, if applicable. (Suggested language: When you make a withdrawal, we also may increase or decrease the amount you receive based on a market value adjustment (MVA). If interest rates went up after you bought your annuity, the MVA likely will decrease the amount you receive. If interest rates went down, the MVA likely will increase the amount you receive.)

Do I pay any other fees or charges?

- Outline any other fees or charges that apply to the annuity.

Suggestions for writing statements in this section:

- When you use a table, include an example to explain the table.

SECTION 5: TAXES

How will payouts and withdrawals from my annuity be taxed?

This section should outline:

- The meaning of tax-deferred (Suggested language: This annuity is tax-deferred, which means you don't pay taxes on the interest it earns until the money is paid to you. When you take payouts or make a withdrawal, you pay ordinary income taxes on the earned interest. You also pay a 10% federal income tax penalty on earnings you withdraw before age 59 1/2.)
- If your company takes premium taxes from withdrawals or payouts, include a statement describing the deduction. (Suggested language: If your state imposes a premium tax, it will be deducted from the money you receive.)
- That one tax-deferred annuity can be exchanged for another without paying taxes on earnings. (Suggested language: You can exchange one tax-deferred annuity for another without paying taxes on the earnings when you make the exchange. Before you do, compare the benefits, features, and costs of the two annuities.)

Does buying an annuity in a retirement plan provide extra tax benefits?

- Explain that there are no tax advantages to buying an annuity as part of a retirement plan. (Suggested language: Buying an annuity within an IRA, 401(k), or other tax-deferred retirement plan doesn't give you any extra tax benefits. In that case, choose your annuity based on its other features and benefits as well as its risks and costs, not its tax benefits.)

SECTION 6: OTHER INFORMATION

What else do I need to know?

All disclosures should include the following statements, modified as needed to match your situation.

- This annuity is designed for people who are willing to let their assets build for at least 10 years.
- This annuity does not participate directly in any stock or equity investments. You aren't buying shares of stock or an index. Dividends paid on the stocks on which the indexes are based don't increase your annuity earnings.
- We may change your annuity contract from time to time to follow federal or state laws and regulations. If this happens, we'll tell you about the changes in writing.
- We pay the agent, broker, or firm for selling the annuity to you.
- Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract [Insert page number] to learn about your free look period. (Or replace suggested language with state and company specific information about free look.)

Include in this section other important information that doesn't appear elsewhere, such as what happens if the annuitant doesn't choose a payout option and information about the impact of riders.

What should I know about the insurance company?

- Provide a general description of the company as well as all contact information, including an address, phone number, Web site, and e-mail address (as applicable). You also may consider including financial strength ratings.

EXAMPLE 2A

Template for an Index Annuity Disclosure

Example 2A shows how to group disclosure material into sections and in two-column format. Disclosure documents should be short (preferably two pages). The template also includes the section headings that are to be used, the questions that need to be answered, and provides suggested language that can be used. If there is additional information that you need to include, including a depiction of how indexed interest is calculated, it should be attached to the disclosure.

SECTION 1

[COMPANY NAME]

[PRODUCT NAME] Disclosure

This document reviews important points to think about before you buy this [INSERT COMPANY NAME] annuity. [INSERT AS APPROPRIATE: IT IS A SINGLE-PREMIUM ANNUITY WHICH MEANS YOU BUY IT WITH ONE PREMIUM (PAYMENT) *OR* FLEXIBLE PREMIUM ANNUITY, WHICH MEANS YOU CAN PURCHASE IT WITH MULTIPLE PAYMENTS.]

This annuity is tax-deferred, which means you don't pay taxes on the interest it earns until the money is paid to you. This annuity can earn interest in two ways: 1) interest that is guaranteed in the first year and can't go below [INSERT RATE/PERCENTAGE] after that, and 2) interest that depends on how one or more market indexes perform.

You can use this annuity to save for retirement and to receive retirement income for life. It is not meant to be used to meet short-term financial goals.

If you have questions about this annuity, please ask your agent, broker, advisor, or contact a company representative using the toll-free number provided below.

SECTION 2

THE ANNUITY CONTRACT

How will the value of my annuity grow?

[*NOTE:* A DEPICTION OF HOW INDEXED INTEREST IS CALCULATED SHOULD BE INCLUDED OR ATTACHED.]

SECTION 3

BENEFITS

How do I get income from my annuity?

What happens after I die?

What other benefits can I choose?

SECTION 4

FEES, EXPENSES & OTHER CHARGES

What happens if I take out some or all of the money from my annuity?

Do I pay any other fees or charges?

SECTION 5

TAXES

How will payouts and withdrawals from my annuity be taxed?

Does buying an annuity in a retirement plan provide extra tax benefits?

SECTION 6

OTHER INFORMATION

What else do I need to know?
This annuity is designed for people who are willing to let their assets build for at least 10 years.

This annuity does not participate directly in any stock or equity investments. You aren't buying shares of stock or an index. Dividends paid on the stocks on which the indexes are based don't increase your annuity earnings.

We may change your annuity contract from time to time to follow federal or state laws and regulations. If we do, we'll tell you about the changes in writing.

We pay the agent. broker, or firm for selling the annuity to you.

Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract [INSERT PAGE NUMBER] to learn about your free look period. [OR REPLACE SUGGESTED LANGUAGE WITH STATE AND COMPANY SPECIFIC INFORMATION ABOUT FREE LOOK.]

What should I know about the insurance company?

EXAMPLE 2B

Sample of an Index Annuity Disclosure

Example 2B is a sample of how a final disclosure document might look. This a only a sample and is not intended to serve as a model disclosure for all types of annuities. Disclosure documents for each company and product will vary. Disclosure documents should be kept short (preferably two pages).

Index Annuity Disclosure

XYZ LIFE INSURANCE

This document reviews important points to think about before you buy this XYZ Life Insurance Company annuity. It is a single-premium annuity which means you buy it with one premium (payment).

This annuity can earn interest in two ways: 1) interest that is guaranteed in the first year and can't go below 1.5% after that, and 2) interest that depends on how one or more market indexes perform. This annuity is **tax-deferred,** which means you don't pay taxes on the interest it earns until the money is paid to you.

You can use this annuity to save for retirement and to receive retirement income for life. It is not meant to be used to meet short-term financial goals.

If you have questions about this annuity, please ask your agent, broker, advisor, or contact a company representative at 800–123–4567.

THE ANNUITY CONTRACT

How will the value of my annuity grow?
The XXX Annuity earns interest in two ways. One is a fixed rate that is guaranteed at x% for the first year. After the first year, the **fixed** rate is guaranteed to be at least 1.5%.

The value of this annuity also may grow through **indexed** returns. The amount of the index-linked interest depends on how the Dow Jones Industrial Average, a nationally recognized market index, performs. Your annuity contract (see page x or Section x) spells out how index-linked interest is credited to your annuity account at the end of each contract year.

How much index-linked interest is credited to your account annually depends on the sum of the **capped monthly returns.** These are the caps (or limits) we set on the effect on your account value of the positive change in the market index from one month to the next. We set the cap on the positive returns at the beginning of each contract year. That cap can change each year. **We guarantee the monthly cap will never be lower than 1%.**

However, interest earnings credited can never be less than zero, even if the sum of the monthly returns is negative.

Here's how the caps work. If the market index increases more than the cap, the monthly change increases by the amount of the cap. If the market index increases less than the cap, the monthly change increases by the amount of the increase. If the market index goes down, the monthly change goes down by the full amount of the decrease. The monthly changes are then added up at the end of the contract year and any interest earned is credited to your account. Each of the following could happen:

- A large decrease in index-linked interest in one month could wipe out some or all of the monthly increases from earlier months.
- Even if the index is up overall for the year, the annual index-linked interest credited could be lower (or zero).
- If the total of the capped monthly returns is negative, the index-linked interest for that year would be zero.

Attached is a depiction explaining how indexed interest is calculated.

BENEFITS

How do I get income (payouts) from my annuity?

Your annuity's account (the value while you're paying into your annuity) depends on your premium and any annual index-linked interest and guaranteed interest credited to your account. After five contract years, you can ask the company to pay the accumulation value of your contract to you as income. You can choose how to get the income. Your annuity contract describes your options in detail (see page x or Section x). Your current choices are:

- **Life:** Guarantees income for as long as you live.
- **Joint and survivor life:** Guarantees income for as long as you or your joint annuitant (usually a spouse) live.
- **Life income with period certain:** Guarantees income for as long as you live. If you die within the "period certain" (usually 10 or 20 years), it pays income to your beneficiary for the rest of the period.
- **Designated period of time:** Pays income for that period.
- **Lump sum:** One payout.

Once you start to get income from your annuity, the account value stops earning index-linked interest. It will continue to earn guaranteed interest.

In the first 10 contract years, you can withdraw money from your annuity once a contract year without paying a surrender charge. The most you can withdraw each year without paying a surrender charge is 10% of the total premiums you've paid. If you withdraw 50% or more of the premiums paid, you lose the right to make a withdrawal without paying a surrender charge.

What happens after I die?
If you die before we start to pay you income from your annuity, your beneficiary can choose to get the accumulation value of your annuity as one payment or as a series of payouts over time. If you die after payouts start, depending on the type of payout you chose, we pay the remaining value in the annuity, if any, to your beneficiary.

FEES, EXPENSES & OTHER CHARGES

What happens if I take out some or all of the money from my annuity?
When you take money from your annuity, you may lose some or all of your credited interest. If you take out all (a full surrender) or part (a partial surrender) of the money, you also may have to pay a surrender charge. The amount of the charge depends on how long you've had the annuity and how much you withdraw. Here's how the surrender charges are calculated.

Contract year	1	2	3	4	5	6	7	8+
Surrender charge	10%	9%	8%	7%	6%	5%	4%	0

Example: After two years, you've paid $10,000 in premium. You want to withdraw $1,100 from your annuity in the third year. Since $ 1,100 is more than 10% of the premium you've paid ($10,000 x 0.10 = $1,000), your surrender charge is $1,100 x 0.08 = $88. There's no surrender charge after the end of the seventh contract year.

When you make a withdrawal, we also may increase or decrease the amount you receive based on a market value adjustment (MVA). If interest rates went up after you bought your annuity, the MVA likely will decrease the amount you receive. If interest rates went down, the MVA likely will increase the amount you receive.

Do I pay any other fees or charges?
No. There aren't any other fees or charges on this annuity.

TAXES

How will payouts and withdrawals from my annuity be taxed?
This annuity is tax-deferred, which means you don't pay taxes on the interest it earns until the money is paid to you. When you take payouts or make a withdrawal, you pay ordinary income taxes on the earned interest. You also pay a 10% federal income tax penalty on earnings you withdraw before age 59 1/2. If your state imposes a premium tax, it will be deducted from the money you receive.

You can exchange one tax-deferred annuity for another without paying taxes on the earnings when you make the exchange. Before you do, compare the benefits, features, and costs of the two annuities. You may pay a surrender charge if you make the exchange during the first seven years you own the annuity. Also, you may pay a surrender charge if you make withdrawals from the new annuity during the first years you own it.

Does buying an annuity in a retirement plan provide extra tax benefits?
Buying an annuity within an IRA, 401(k), or other tax-deferred retirement plan doesn't give you any extra tax benefits. Choose your annuity based on its other features and benefits as well as its risks and costs, not its tax benefits.

OTHER INFORMATION

What else do I need to know?

- This annuity is designed for people who are willing to let their assets build for at least 10 years.
- This annuity does not participate directly in any stock or equity investments. You aren't buying shares of stock or an index. Dividends paid on the stocks on which the indexes are based don't increase your annuity earnings.
- We may change your annuity contract from time to time to follow federal or state laws and regulations. If we do, we'll tell you about the changes in writing.
- We pay the agent, broker, or firm for selling the annuity to you.
- Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract (page x) to learn about your free look period.

What should I know about the insurance company?
XYZ Life Insurance Company offers a wide variety of retirement and financial security products, including life insurance, annuities, long-term care, and disability income insurance. We also are a leading provider of products and services to workplace-based pension plans—both defined contribution and defined benefit plans. Our financial strength ratings are: A+ (A.M. Best); AA (S&P); Aa3 (Moody's); and AA+ (Fitch).

XYZ Life Insurance Company
123 Main Street
Your Town USA
Telephone: 800–123–4567
http://www.xyzlife.com

XYZ LIFE INSURANCE

HOW TO COMPLETE THE TEMPLATE FOR DEPICTING INDEXED INTEREST

The following is a guide for developing a depiction of how credited interest is calculated for an index annuity. A separate depiction for each indexed account offered under the annuity contract should be attached to the disclosure document as a supplement. Each depiction must include a written explanation of how interest is calculated. A graphic example supporting the explanation enhances consumer understanding.

Guidelines for developing a depiction

- Explain how indexed interest is calculated for a single index term. For example, if an indexed interest credit covers a 12-month period, then the examples should show how indexed interest is calculated for a 12-month period. If the indexed interest credit covers more than a 12-month period, such as a 5-year point-to-point account, then the examples should show how indexed interest is calculated for a 5-year period.
- If a non-guaranteed element such as a cap is involved in the interest calculation, the value used in the explanation should never be greater than the then-current value in effect for new policies. The minimum guaranteed value for such guaranteed element must be stated.
- If an annuity contract tracks different account values for different benefit streams such that there is more than one indexed interest credit for a given period, then the explanation must depict the calculation of indexed interest for each benefit stream.
- To assure that the explanation is balanced, it should provide examples explaining how interest is calculated under two index scenarios: one with positive indexed interest and one with zero indexed interest. A graphic example will enhance consumer understanding.
    - The positive example should portray a reasonably favorable change in the index constructed to produce an illustrative indexed interest credit equivalent to an annual effective rate of [6%], subject to any lower cap that may apply to the indexed account. If the indexed interest credit covers a time period other than 12 months, the resulting interest credit must also be expressed in terms of an equivalent annual effective rate.
    - The zero example should portray an equally negative index scenario that results in zero indexed interest.

EXAMPLE 2C

Template for Depiction of Indexed Interest

Example 2C is a template for developing a depiction of how credited interest is calculated for an index annuity. A separate depiction for each indexed account offered under the annuity contract should be attached to the disclosure document as a supplement. Each depiction must include a written explanation of how interest is calculated. A graphic example supporting the explanation enhances consumer understanding.

[COMPANY NAME] Depiction of Indexed Interest for the [NAME OF INDEXED ACCOUNT] Offered in the [ANNUITY CONTRACT NAME]

or

[COMPANY NAME] Depiction of Indexed Interest for the [ANNUITY CONTRACT NAME]

This document provides an explanation of how indexed interest is calculated for the [NAME OF INDEXED ACCOUNT].

Graphic Examples of How Indexed Interest is Calculated

- Positive Indexed Interest Result

  [INSERT: LINE OR BAR CHART CONTRASTING PERFORMANCE OF INDEX OVER THE CREDITING PERIOD WITH THE INDEXED INTEREST RESULT.] Graphic should be accompanied by a written explanation that explains what index is used, how interest is linked to the index, and what elements of the account are subject to change.

- Zero Indexed Interest Result

  [INSERT: LINE OR BAR CHART CONTRASTING PERFORMANCE OF INDEX OVER THE CREDITING PERIOD WITH THE INDEXED INTEREST RESULT.] Graphic should be accompanied by a written explanation that explains what index is used, how interest is linked to the index, and what elements of the account are subject to change.

EXAMPLE 2D

Sample of Depiction of Indexed Interest

The sample shows how indexed interest is credited for an XYZ Life Insurance Company annuity. See page 22 for instructions on how to complete the template for depicting indexed interest.

Index Annuity Disclosure: Indexed Interest Depiction for the XYZ Index Annuity

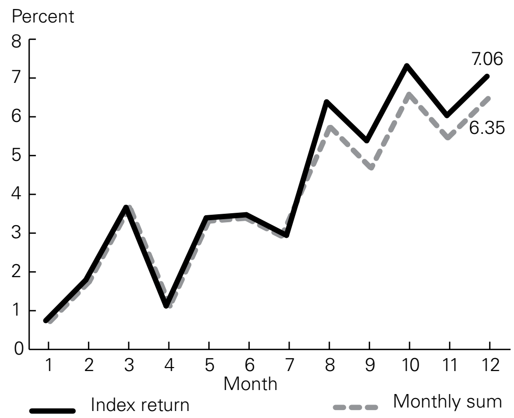
XYZ LIFE INSURANCE

Scenario 1 shows hypothetical index changes for a 12-month period in which the index performed favorably. The index return (solid line) shows the cumulative return that investing directly in the index would have achieved. The dotted monthly sum line represents the cumulative capped monthly sum, compounded, and assuming a 2.8% monthly cap. The cap may vary from year to year, but is guaranteed never to be less than 1.0%. **In scenario 1, the ending monthly sum is 6.35%—the interest rate that would be credited to the index annuity.**

Example: Favorable index performance

Month	Monthly index return (percent)	Monthly capped index return (percent)
1	0.70	0.70
2	1.05	1.05
3	1.87	1.87
4	–2.54	–2.54
5	2.27	2.27
6	0.08	0.08
7	–0.53	–0.53
8	3.44	2.80
9	–1.00	–1.00
10	1.94	1.94
11	–1.29	–1.29
12	1.01	1.01
Total (compounded)	7.06	6.35

Scenario 1: Positive indexed interest

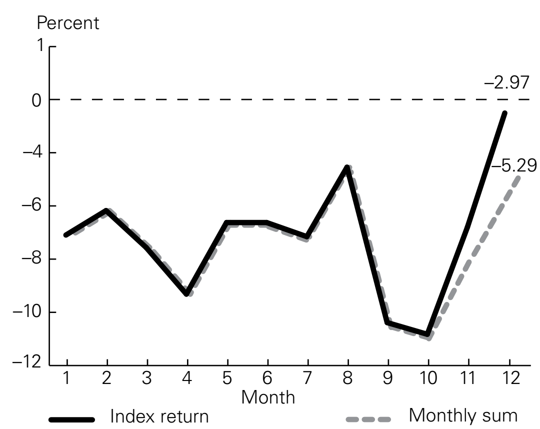


Scenario 2 shows hypothetical index changes for a 12-month period in which the index performed poorly. The solid black index return line represents the cumulative return that investing directly in the index would have achieved. The dotted monthly sum line represents the cumulative capped monthly sum, compounded, and assuming a 2.8% monthly cap. The cap may vary from year to year, but is guaranteed never to be less than 1.0%. **In scenario 2, since the ending monthly sum is negative (–5.29%) at the end of the year, 0 % interest would be credited to the index annuity.**

Example: Unfavorable index performance

Month	Monthly index return (percent)	Monthly capped index return (percent)
1	–7.15	–7.15
2	0.92	0.92
3	–1.39	–1.39
4	–1.75	–1.75
5	2.69	2.69
6	1.95	1.95
7	–2.48	–2.48
8	2.61	2.61
9	–6.04	–6.04
10	–0.24	–0.24
11	4.03	2.80
12	4.63	2.80
Total (compounded)	–2.97	–5.29

Scenario 2: Zero indexed interest



VARIABLE ANNUITY DISCLOSURE MATERIALS

How to Complete the Template for a Variable Annuity Disclosure

Example 3A: Template for a Variable Annuity Disclosure

Example 3B: Sample of a Variable Annuity Disclosure

HOW TO COMPLETE THE TEMPLATE FOR A VARIABLE ANNUITY DISCLOSURE

The following is a guide to writing a disclosure for an variable annuity. It includes guidance for writing statements; the types of information that should be covered under each required section, the headings to be used and questions to be answered; and in some cases, provides suggested language that can be used. **Disclosure documents must be prepared consistently with FINRA conduct rule 2210 (Communications to the Public).**

Example 3A on page 29 shows a graphic of a variable annuity disclosure template; Example 3B on pages 30–31 is an example of what an actual product disclosure may look like; Addendum X shows the disclosure document to scale. Companies are encouraged to follow the language used in the sample.

***Note:* The variable annuity disclosure document may be presented in two forms: print or electronic. If distributed electronically, in addition to providing direct links to the annuity prospectus or supplement material for more information, companies also should keep references to specific pages (and, if appropriate, headings on that page) in the event consumers prefer to print hard copies.**

Guide to Writing Disclosure Statements

- Make a clear distinction about whether a statement is true of all annuities ("an annuity") or all annuities of this type ("a deferred annuity") or this product ("this annuity," "this deferred annuity").
- In a question, refer to the reader as I (my annuity). In the answer, refer to the reader as you (your annuity). Refer to the company as "we" or use the name of the insurance company. Don't use the generic "insurer" or "company."
- Avoid statements that don't give specific information or don't give the reader information to find specific information. For example, "Interest is credited to your account" is a general statement that isn't very useful. "Interest is credited to your account daily" is a specific statement of information as is "Page 23 of your annuity prospectus explains the different ways that interest may be credited to your account."
- Use specific terms (i.e. surrender) from your annuity prospectus in the disclosure but include a definition in parentheses after.
- Put important terms in bold font the first time you use them. Be selective about what terms you consider important. If too many words are in bold, the technique loses its effectiveness.
- If you refer the reader to the annuity prospectus for more information be specific about what information is there and exactly where to find it (e.g. use page numbers or section titles).
- The phrasing "includes" ("Your options include") suggest there are other options not stated here. If you've stated all of the options, say "Your options are." If you plan to add options later, say, "Your options now are."
- Use "annuity prospectus" when you're referring the consumer to the written prospectus.
- Don't use the word policy to refer to an annuity.
- When possible, present information in a bulleted list with a brief description and refer to a specific page number in the annuity prospectus for more information.

SECTION 1: INTRODUCTION

- Include your company name and name of the product at the top of the page. A company logo also may be inserted.
- Include statements that briefly explain each of the major features of the annuity. (Suggested language: This annuity is deferred, which means payouts begin at a future date.)
- Include a statement that the buyer can use an annuity for lifetime income but it is not meant for short-term goals. (Suggested language: You can use an annuity to save money for retirement and to receive retirement income for life. It is not meant to be used to meet short-term financial goals.)
- Specify if the annuity is single-premium or flexible premium. (Suggested language: This annuity is single-premium which means you buy it with one payment (premium) **or** flexible premium which means you can purchase it with multiple payments (premiums)).
- Include information about how the annuity accumulates earnings. For example: This annuity can accumulate earnings in two ways: 1) from various investment choices we offer and 2) from a fixed interest account of XYZ Life Insurance Company.

SECTION 2: THE ANNUITY CONTRACT

What are my investment options?

- Explain how the annuity accumulates earnings, clearly distinguishing between guaranteed, non-guaranteed, and determinable elements, including their limitations.
- List how many investment choices are currently available, explain the choices the consumer must make, and refer to the specific pages of the annuity prospectus where detailed information is available. (If the disclosure is online, this section may provide a link to more information about investment choices.)

What type of income (payouts) can I get from my annuity?

- Mention the various payout options and provide a link to the annuity prospectus, page numbers, or section headings where more information is available.

What are the benefits of my annuity?

- List and describe the benefits of the annuity and include links, page numbers, or section headings for more information.

Guide to writing statements in this section:

- Use the term premium to refer to money the consumer pays you. Use the term payout to refer to money you pay the consumer.
- Use the same terms that are used in the annuity prospectus for payout options, but include a clear explanation of each.
- If the annuity prospectus uses another term for payout, the first time it appears put the other term in the disclosure followed by payout in parenthesis. After the first time, use the generic term payout.
- When you use a table, explain the table. An example using information from the table is a good way to explain the table.
- Be specific when you refer to the annuity prospectus; include links, page numbers and, if appropriate, headings on that page.

SECTION 3: OPTIONAL BENEFIT RIDERS AND THEIR FEES

What other benefits can I choose?

- List all optional riders, briefly describe each, and include either the range of fees or the maximum fee charged for each option. Include links, page numbers, or section headings and refer to specific page numbers or section headings in the annuity prospectus and supplement material for more information.

Guide to writing statements in this section:

- Present information in a chart or table.
- Be specific when you refer to the annuity prospectus; include links, page numbers and, if appropriate, section headings on that page.
- Use the same terms used in the annuity prospectus for riders, but include a brief explanation of what the rider offers.

SECTION 4: RISKS

What are the risks?

In this section, describe the types of risks in a bulleted list with a brief description of each. If online, include a link to the relevant information. Also include specific page numbers in the annuity prospectus for more detailed information. This section should describe:

- Risks to guaranteed elements.
- Risks associated with underlying investments.
- Options and restrictions on withdrawing money from the annuity.
- Tax consequences for early withdrawals.

Guide to writing statements in this section:

- Use the terms used in the annuity prospectus for risks, but include a brief explanation of what each risk is.
- Be specific when you refer to the annuity prospectus; include links, page numbers and, if appropriate, headings on that page.

SECTION 5: FEES, EXPENSES AND OTHER CHARGES

What happens if I take out some or all of the money from my annuity?

This section should outline:

- The amount of surrender charges and when they are paid.
- If the variable annuity contract is designed without surrender charges, the question should be answered to indicate that no surrender charges apply under the contract provisions for surrenders.
- Any other charges or adjustments in the amount received when taking money from an annuity.

Guide to writing statements in this section:

- If the annuity prospectus uses another term for surrender charge, the first time it appears in the disclosure, put the other term followed by surrender charge in parentheses. After the first time, use the generic term surrender charge. (Example: XYZ Life Insurance Company takes a contingent deferred sales charge (also known as a surrender charge) …).
- State surrender charges in a table format and include an example to explain the table.
- Be specific when you refer to the annuity prospectus; include links, page numbers and, if appropriate, headings on that page.

What fees or charges do you take from my annuity account value?

- List and describe contract fees, such as annual contract fees and annual portfolio expenses. You may list the range of each fee or the maximum fee charged for each.

Do I pay any other fees or charges?

- Outline any other fees or charges that apply to the annuity, and include links, page numbers or section headings in the annuity prospectus for more information.

Guide to writing statements in this section:

- A table may be useful to explain fees and charges. If you use a table, include an example to explain the table.

SECTION 6: TAXES

How will payouts and withdrawals from my annuity be taxed?

This section should outline:

- The meaning of tax-deferred (Suggested language: Variable annuities are tax-deferred which means you don't pay taxes on accumulated earnings until the money is paid to you. When you take payouts or make a withdrawal, you pay ordinary income taxes on the accumulated earnings. You also defer paying taxes on earnings if you move money from one investment option in your annuity to another. You may pay a 10% federal income tax penalty on earnings you withdraw before age 59 1/2.)
- If your company takes premium taxes from withdrawals or payouts, include a statement describing the deduction. (Suggested language: If your state imposes a premium tax, it will be deducted from the money you receive.)
- That one tax-deferred annuity can be exchanged for another without paying taxes on accumulated earnings. (Suggested language: You can exchange one tax-deferred annuity for another without paying taxes on the accumulated earnings when you make the exchange. Before you do, compare the benefits, features, and costs of the two annuities.)

Does buying an annuity in a retirement plan provide extra tax benefits?

- Explain that there are no additional tax advantages to buying an annuity in an IRA, 401 (k) plan or other tax deferred retirement product. (Suggested language: Buying an annuity within an IRA, 401(k), or other tax-deferred retirement plan doesn't give you any extra tax benefits. Choose your annuity based on its other features and benefits as well as its risks and costs, not its tax benefits.)

SECTION 7: OTHER INFORMATION

What else do I need to know?

All disclosures should include the following statements, modified as needed to match your situation.

- We may change your annuity contract from time to time to follow federal or state laws and regulations. If this happens, we'll tell you about the changes in writing.
- You should ask your broker-dealer for information about how he or she is paid. Your broker-dealer may receive additional compensation from us for selling this annuity contract than for selling other variable annuity contracts.
- Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract [Insert link, page number or section title] or the annuity prospectus [Insert link, page number or section title] to learn about your free look period. (Or replace suggested language with state and company specific information about free look.)

Include in this section other important information that doesn't appear elsewhere, such as what happens if the annuitant doesn't choose a payout option and information about the impact of riders.

What should I know about the insurance company?

Include in this section a general description of the company as well as all contact information, including an address, phone number, Web site, and e-mail address (as applicable). You also may consider including financial strength ratings.

All disclosures should include the following statement, modified as needed to match your situation:

- Note: The above information is current as of the annuity prospectus dated __. This is a summary document and not part of your contract with the insurer. The variable annuity prospectus for the specific contract you are considering contains important information required under the federal securities laws. The fee table and example in the annuity prospectus depict the specific chargers of each contract at different points in time, and are useful in making an informed purchase decision. If you wish to receive a paper copy of the annuity prospectus and supplement material, click here or call _______. There is no charge for paper copies.

EXAMPLE 3A

Template for a Variable Annuity Disclosure

Example 3A shows how to group disclosure material into sections and in two-column format. Disclosure documents should be kept short. The template also includes the section headings that are to be used, the questions that need to be answered, and provides direction. Refer to the accompanying instructions for more information about how to complete the template and for suggested language. Disclosure documents must be prepared consistently with FINRA conduct rule 2210 (Communications to the Public).

Note: **The variable annuity disclosure document may be presented in two forms: print or electronic. If distributed electronically, in addition to providing links to the prospectus, keep references to specific pages in case consumers choose to print hard copies.**

SECTION 1

[COMPANY NAME]

[PRODUCT NAME] Disclosure

[STATE COMPANY NAME AND NAME OF PRODUCT. SPECIFY IF THE ANNUITY IS A SINGLE- OR FLEXIBLE- PREMIUM. INCLUDE STATEMENTS THAT BRIEFLY EXPLAIN MAJOR FEATURES AND HOW THE ANNUITY ACCUMULATES EARNINGS. DISCLOSE THAT THE ANNUITY IS NOT MEANT TO BE USED TO MEET SHORT-TERM GOALS. SUGGESTED LANGUAGE PROVIDED IN THE ACCOMPANYING INSTRUCTIONS.]

SECTION 2

THE ANNUITY CONTRACT

What are my investment options?

[EXPLAIN THE CHOICES THE CONTRACT OWNER MUST MAKE, INCLUDING HOW MANY INVESTMENT OPTIONS ARE AVAILABLE AND THEIR VARYING DEGREES OF RISK AND THE CURRENT RATE OF THE FIXED ACCOUNT]

What types of income (payouts) can I get from my annuity?

[DESCRIBE VARIOUS PAYOUT OPTIONS.]

What are the benefits of my annuity?

[LIST AND DESCRIBE THE ANNUITY'S BENEFITS.]

SECTION 3

OPTIONAL BENEFIT RIDERS

What other benefits can I choose?

[LIST AND DESCRIBE ALL OPTIONAL RIDERS. INCLUDE EITHER THE RANGE OR MAXIMUM FEE CHARGED FOR EACH.]

SECTION 4

RISKS

What are the risks?

[LIST AND DESCRIBE RISKS TO GUARANTEED ELEMENTS, RISKS ASSOCIATED WITH THE UNDERLYING INVESTMENTS, RESTRICTIONS ON WITHDRAWING MONEY, AND TAX LIABILITIES FOR EARLY WITHDRAWALS.]

SECTION 5

FEES, EXPENSES AND OTHER CHARGES

What happens if I take out some or all of the money from my annuity?

[STATE SURRENDER CHARGES AND PROVIDE AN EXAMPLE].

What fees or charges do you take from my annuity account value?

[LIST AND DESCRIBE CONTRACT FEES AND PROVIDE AN EXAMPLE.]

Do I pay any other fees or charges?

[OUTLINE OTHER FEES THAT APPLY.]

SECTION 6

TAXES

How will payouts and withdrawals from my annuity be taxed?

[DESCRIBE THE MEANING OF TAX-DEFERRED. INCLUDE A STATEMENT DESCRIBING ANY DEDUCTION TAKEN FOR PREMIUM TAXES. EXPLAIN TAX TREATMENT OF EXCHANGES. SUGGESTED LANGUAGE PROVIDED IN THE ACCOMPANYING INSTRUCTIONS.]

SECTION 7

Does buying an annuity in a retirement plan provide extra tax benefits?

[EXPLAIN THAT THERE ARE NO ADDITIONAL TAX BENEFITS. SUGGESTED LANGUAGE PROVIDED IN THE ACCOMPANYING INSTRUCTIONS.]

SECTION 8

What else do I need to know?

Changes to your contract

[INCLUDE A STATEMENT EXPLAINING THAT THE CONTRACT HOLDER WILL BE NOTIFIED IN WRITING OF ANY CHANGES TO THE CONTRACT. SUGGESTED LANGUAGE PROVIDED IN THE ACCOMPANYING INSTRUCTIONS.]

Compensation

[DIRECT THE CONTRACT-HOLDER TO ASK HOW THEIR BROKER-DEALER IS PAID. INCLUDE A STATEMENT EXPLAINING THAT YOUR COMPANY MAY PAY THE BROKER-DEALER ADDITIONAL COMPENSATION FOR SELLING THIS ANNUITY. SUGGESTED LANGUAGE PROVIDED IN THE ACCOMPANYING INSTRUCTIONS.]

Free Look

[INCLUDE STATE AND COMPANY SPECIFIC INFORMATION ABOUT FEE LOOK. SUGGESTED LANGUAGE PROVIDED IN THE ACCOMPANYING INSTRUCTIONS.]

What should I know about the insurance company?

[PROVIDE RELEVANT COMPANY INFORMATION, INCLUDING ADDRESS, PHONE NUMBER, WEBSITE. ALSO INCLUDE THE FOLLOWING STATEMENT, MODIFIED TO MEET SPECIFIC COMPANY SITUATION: *Note: the above information is current as of the annuity prospectus dated____. This is a summary document and not part of your contract with the insurer. The variable annuity prospectus for the specific contract you are considering contains important information required under the federal securities laws.*]

EXAMPLE 3B

Sample of a Variable Annuity Disclosure

Example 3B is a sample of how a final disclosure document might look. Addendum X shows document to scale. This is a only a sample and is not intended to serve as a model disclosure for all types of annuities. Disclosure documents for each company and product will vary. Disclosure documents must be prepared consistently with FINRA conduct rule 2210 (Communications to the Public).

Note: **The variable annuity disclosure document may be presented in two forms: print or electronic. If distributed electronically, in addition to providing links to the prospectus, keep references to specific pages in case consumers choose to print hard copies.**

Variable Annuity Disclosure

XYZ LIFE INSURANCE

This document reviews important points to think about before you buy this XYZ Life Insurance Company annuity. This variable annuity is a contract between you and our company. It is a single-premium annuity which means you buy it with one payment (premium).

This annuity is deferred, which means payouts begin at a future date. You can use an annuity to save money for retirement and to receive retirement income for life. It is not meant to be used to meet short-term financial goals. You may pay a fee if you take out money before the end of a time period specified by the contract. You also may pay a tax penalty in addition to taxes due on earnings if you withdraw money before age 59 1/2.

This annuity can accumulate earnings in two ways: 1) from various investment choices we offer and 2) from a fixed interest account of XYZ Life Insurance Company. You don't pay taxes on the annuity's accumulated earnings until the money is paid to you.

If you have questions about this annuity, please ask your agent, broker, advisor, or contact a company representative at 800–123–4567.

THE ANNUITY CONTRACT

What are my investment options?
You can invest your money in our fixed interest account and in any or all of the investment choices we offer. Click on the links below or refer to pages of the annuity prospectus for more information about your choices.

- **Investment choices:** You may choose from 41 fund portfolios that have different investment objectives and levels of risk (see page 13).
- **Fixed account**: This choice offers a guaranteed rate of return, which currently is 3% (see page 12).

What types of income (payouts) can I get from my annuity?
You can choose to get payouts for you and a joint annuitant for life or for a specific period of time or you can choose a lump sup payout. (Pages__ explain you payout options.)

What are the benefits of my annuity?
The benefits of your annuity are described below. Click on the links provided or read the section of the annuity prospectus for more information.

- **Death benefits:** This annuity includes a death benefit that will be paid to your beneficiary if you die before your income payouts begin. This benefit equals either your premium minus any withdrawals or the contract value, whichever is greater (see page 28).
- **Nursing care and terminal condition withdrawal:** If you or your spouse are in a hospital or nursing facility for 30 consecutive days or diagnosed with a terminal condidtion after the annuity was issued, you can take money from your annuity without paying a fee (see page 37).
- **Unemployment waiver:** If you (or your spouse) become unemployed, you won't pay fees when you take out money if certain conditions defined in the contract are met (see page 37).
- **Systematic payout option:** You can get monthly, quarterly, or annual payouts from your annuity in set amounts at any time without paying certain fees (see page 34).

OPTIONAL BENEFIT RIDERS AND FEES

What other benefits can I choose?
The contract also offers other benefits for an extra cost. Your choices and the fees charged are described below. You will pay a fee for each option you choose every year you own the annuity. The fee depends on the value of your investments. Click on the links or refer to pages in the annuity prospectus and supplement material for more information, including how fees are calculated.

Annual Fees for Optional Benefit Riders

Additional Death Benefit Riders	CURRENT	MAXIMUM
Additional Death Distribution Option Pays your beneficiary an extra death benefit in specific situations (description of benefit: supplement pages 35–36; explanation of fee: supplement page 23).	.20%	20%
Living Benefit Riders	CURRENT	MAXIMUM
Guaranteed Minimum Accumulation Benefit: Guarantees a future value of your annuity no matter how the investment options you choose perform (description of benefit: supplement pages 4–5; explanation of fee; supplement pages 7–8).	.40%	.50%
Guaranteed Minimum Withdrawal Benefit: Guarantees an annual amount you can take out of your annuity regardless of its value (description of benefit: supplement pages 5–7; explanation of fee; supplement pages 7–8).)	.50% (single) .85% (joint)	1.00%

RISKS

This annuity has several risks. Click on the links below or read the annuity prospectus for more information about:

- **Risks of your annuity contract:** There's a risk that we won't be able to pay claims on guaranteed annuity contract benefits, such as the guaranteed minimum accumulation value (see page 12).
- **Risks based on the investment portfolio you choose:** The investments you choose may decrease in value; if any of them do, the value of your annuity will go down. You may lose money if you take money out in whole or in part when the value is down (see pages 15–16).
- **Access to your money:** You may pay a fee (surrender charge) if you take out money before the end of the fifth contact year (see the next section of this disclosure or pages 24–25).
- **Your tax liability:** You may pay a 10% federal income tax penalty on earnings in addition to taxes due on earnings if you withdraw money before age 59 1/2 (see section on "Taxes" or pages 29–34).

CONTRACT FEES, EXPENSES AND OTHER CHARGES

What happens if I take out some or all of the money from my annuity?
You may pay a surrender charge if you take out money before the end of the fifth contract year. Here's how the charge is calculated.

Contract Year	1	2	3	4	5	6+
Surrender Charge	5%	4%	3%	2%	1%	0

Example: If you withdraw $5,000 from your annuity in the third contract year, your surrender charge is $5,000 x .0.03 = $150. If you take out any amount after the end of the fifth contract year, there's no charge.

You may not have to pay a surrender charge if you take out part of your money (a partial surrender). **Click here** or see pages 20–21 of the annuity prospectus for more information about surrender charges.

What fees or charges do you take from my annuity account value?
You will pay fees every year you own the annuity. The contract fees depend on the value of the investments in your annuity and the types of investments you chose. There's also an annual service charge. We will tell you the amount of the service charge (between $0 and $35 per annuity) each year.

Annual Contract Fees
(not including fees for optional riders)

	Current	**Maximum**
Mortality and expense risk	.95%	1.35%
Administrative	.10%	.15%
Total annual contract fees	**1.50%**	**2.27%**

Total Annual Portfolio Operating Fees

Minimum	.85%	Maximum	1.42%

Example: Cost Based on Annual Portfolio Expenses

Investment value	**Minimum**	**Maximum**
$1,000	$8.50	$14.50
$50,000	$425.00	$710.00
$100,000	$850.00	$1,420.00

Do I pay any other fees or charges?
There may be other charges in some cases. You may pay a contract maintenance charge, a transfer fee, and investment advisory fees. You also pay a fee for each optional rider you choose. **Click here** or see page 10 of the annuity prospectus for more information about fees and charges.

TAXES

How will payouts and withdrawals from my annuity be taxed?
Variable annuities are tax-deferred, which means you don't pay taxes on the annuity's accumulated earnings until the money is paid to you. When you take payouts or make a withdrawal, you pay ordinary income taxes on the accumulated earnings. You also defer paying taxes on earnings if you move money from one investment option in your annuity to another. You may pay a 10% federal income tax penalty on earnings you withdraw before age 59 1/2. If your state imposes a premium tax, it will be deducted from the money you receive.

You can exchange one tax-deferred annuity for another without paying taxes on the accumulated earnings when you make the exchange. Before you do, compare the benefits, features, and costs of the two annuities.

Does buying an annuity in a retirement plan provide extra tax benefits?
Buying an annuity within an IRA, 401(k), or other tax-deferred retirement plan doesn't give you any extra tax benefits. Choose your annuity based on its other features and benefits as well as its risks and costs, not its tax benefits.

OTHER INFORMATION

What else do I need to know?
Changes to your contract: We may change your annuity contract from time to time to follow federal or state laws and regulations. If we do, we'll tell you about the changes in writing.

Compensation: You should ask your broker-dealer for information about how he or she is paid. The broker-dealer may receive additional compensation from us for selling this annuity contract than for selling other variable annuity contracts.

Free Look: Many states have laws that give you a set number of days to look at an annuity after you buy it. If you decide during that time that you don't want it, you can return the annuity and get all your money back. Read your contract (page ___) **or see page ______ of the annuity prospectus** to learn about your free look period.

What should I know about the insurance company?
XYZ Life Insurance Company offers a wide variety of retirement and financial security products, including life insurance, annuities, long-term care, and disability income insurance. We also are a leading provider of products and services to workplace-based pension plans—both defined contribution and defined benefit plans. Our financial strength is as follows: A+ (A.M. Best); AA (S&P); Aa3 (Moody's); and AA+ (Fitch).

XYZ Life Insurance Company
123 Main Street
Your Town USA
Telephone: 800–123–4567
www.XYZlife.com

XYZ LIFE INSURANCE

Note: The above information is current as of the annuity prospectus dated May 1, 2006. This is a summary document and not part of your contract with the insurer. The variable annuity prospectus for the specific contract you are considering contains important information required under the federal securities laws. The fee table and example in the annuity prospectus depict the specific charges of each contract at different points in time, and are useful in making an informed purchase decision. If you wish to receive a paper copy of the annuity prospectus and supplement material, click here or call 800–123–4567. There is no charge for the paper copies.

NAIC Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities

I. On July 15, 2008, the NAIC Life Insurance and Annuities (A) Committee adopted a new Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities.

A. This regulation will be reviewed further by the NAIC Executive and Plenary Committees for formal adoption at or before the NAIC September 2008 meeting, but no further changes are expected.

B. The NAIC regulation directly parallels the North American Securities Administrators Association (NASAA) credentialing regulations and was developed in close coordination with NASAA and supported by NASAA.

1. *See* http://www.nasaa.org/content/Files/Senior_Model_Rule110807.pdf

2. The NAIC regulation and an accompanying bulleting can be obtained on the NAIC website at http://www.naic.org/Releases/2008_docs/senior_sales.htm .

II. Purpose of the NAIC regulation

A. The regulation establishes standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product.

B. The regulation will apply to any solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product by an "insurance producer," that is defined as a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance, including annuities.

III. Prohibited Uses of Senior-Specific Certifications and Professional Designations [Section 5]

A. Under the regulation, it will be an unfair and deceptive act or practice in the business of insurance within the meaning of the Unfair Trade Practices Act for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that insurance producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product, either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to a life insurance or annuity product.

B. The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:

1. Use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation;

2. Use of a nonexistent or self-conferred certification or professional designation; Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the insurance producer using the certification or designation does not have; and

3. Use of a certification or professional designation that was obtained from a certifying or designating organization that:

a) Is primarily engaged in the business of instruction in sales or marketing;

b) Does not have reasonable standards or procedures for assuring the competency of its certificants or designees;

c) Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

d) Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

4. Under the regulation, there is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of subsection A(2)(d) when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

a) The American National Standards Institute (ANSI);

b) The National Commission for Certifying Agencies; or

c) Any organization that is on the U.S. Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes."

5. In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include:

a) Use of one or more words such as "senior," "retirement," "elder," or like words combined with one or more words such as "certified," "registered," "chartered," "advisor," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

b) The manner in which those words are combined.

6. For purposes of this NAIC regulation, a job title within an organization that is licensed or registered by a State or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

a) Indicates seniority or standing within the organization; or

b) Specifies an individual's area of specialization within the organization.

7. Under this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.