

## MEMORANDUM

August 7, 2008

To: File S7-14-08

From: Hunter Jones

Re: Proposed Rule Concerning Indexed Annuities

On July 25, 2008, Iowa Commissioner of Insurance Susan Voss met with Chairman Cox and Alex Cohen, Hunter Jones and Andrew Donohue of the Commission's staff, to discuss the Commission's June 2008 rule proposal regarding indexed annuities. Commissioner Voss discussed efforts by State regulators to address certain abusive practices related to indexed annuities, and the timing of the Commission's rule proposal. During the meeting, Commissioner Voss delivered the documents attached to this memorandum, concerning insurance companies and related regulations.

Attachments

**LARGEST COMPANIES  
(2006 ASSETS)**

**10 Largest Iowa Life Companies**

Principal Life Insurance Company	\$125,532,324,846
Transamerica Life Insurance Company	73,929,534,848
ING USA Annuity and Life Insurance Company	61,524,347,886
Transamerica Occidental Life Ins Company	30,344,061,307
Midland National Life Insurance Company	21,661,560,459
Peoples Benefit Life Insurance Company	15,496,598,790
American Equity Investment Life Insurance Co	11,471,358,118
Life Investors Insurance Company of America	10,306,216,547
AmerUs Life Insurance Company	9,669,901,946
CUNA Mutual Life Insurance Company	8,188,092,089

**10 Largest Iowa Casualty Companies**

Employers Mutual Casualty Company	1,976,772,516
State Auto Property & Casualty Ins Co	1,555,269,249
Farm Bureau Mutual Insurance Company	1,380,229,452
United Fire & Casualty Company	1,213,874,484
AMCO Insurance Company	997,504,755
GuideOne Mutual Insurance Company	950,709,904
Grinnell Mutual Reinsurance Company	640,611,074
NCMIC Insurance Company	486,729,957
Agri General Insurance Company	431,259,132
GuideOne Property & Casualty Insurance Co	399,254,842

## IOWA INSURANCE DIVISION

Iowa Annuity Suitability and Disclosure Actions from January 1, 2007, to January 9, 2008

1. Iowa Annuity Suitability Regulation became effective (based on NAIC Model Suitability Regulation)
2. Iowa Indexed Product General Training Regulation became effective January 1, 2008. Requires four hours of mandated general index product training taking Iowa Insurance Division approved courses before an agent can be appointed by an insurer to sell indexed annuities or indexed life products.
3. Issued Senior Designations Bulletin in September 2007 banning use of designations by producers unless they were supported by meaningful educational requirements (we had listed several that were acceptable and left open the door to approve more if they could be supported. Placed responsibility on companies to police the use by their producers.)
4. Conducted sweep of annuity sales seminars from January thru July 2007. We had Division representatives attend 26 seminars, issued 3 cease and desist orders for various insurance and security violations, asked presenters to clarify and/or disclose more information.
5. Conducted a survey with all licensed annuity carriers in Iowa in the summer of 2007 to determine how they were meeting the requirements of the Iowa Suitability and Disclosure laws. They were required to send it their suitability forms which we reviewed and furnished comments on, etc.
6. Agreed to support the NAVA electronic straight-thru suitability process.
7. Agreed with FINRA that it would be sufficient, in compliance of the supervision requirements of the Iowa Suitability Regulation, for companies to rely on the FINRA oversight process of Broker-Dealers to assure sales of annuity products by broker-dealers were suitable. In addition, FINRA and Iowa Insurance Division agreed to meet quarterly to discuss any issues that might arise in this area.
8. Submitted legislation for the 2008 Iowa Legislature to increase guaranty fund insurance coverage from \$100,000 to \$250,000.
9. Monitored the development of the ACLI Annuity Disclosure Templates for the past year and reviewed those templates as to their compliance with Iowa Disclosure laws. In November of 2007 we suggested to the ACLI, and have agreed with the ACLI and a substantial number of its major member companies, to conduct a pilot program stating that companies using the ACLI templates in accordance with the instructions accompanying the templates will be in compliance with the Iowa Annuity Disclosure Regulation (which Iowa has had in effect for several years and which is based on the NAIC Model). The pilot program will be monitored for up to a year for an evaluation of the effectiveness of the disclosure forms. FINRA has agreed to assist in the evaluation.
10. Issued a Bulletin in December 2006 stating that the Iowa Insurance Division would consider IMSA member companies to be less likely to have violated

market conduct rules and that the Division would allocate more market conduct resources to non-IMSA companies.

11. Implemented heightened review of all annuity contracts submitted under Iowa law. Our actuarial review is now more comprehensive using sophisticated computer templates in the review and we are withholding approval of the product until any concerns are addressed about how a company plans to disclose certain information, what market does the company consider the product suitable for, etc.

Prepared by:  
Jim Mumford  
First Deputy Insurance Commissioner  
Iowa Insurance Division  
January 10, 2008

**SUITABILITY IN ANNUITY TRANSACTIONS  
MODEL REGULATION**

The date in parentheses is the effective date of the legislation or regulation, with the latest amendments.

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Alabama	ALA. ADMIN. CODE § 482-1-137 (Effective Jan. 1, 2007).	
Alaska	NO ACTION TO DATE	
Arizona	ARIZ. REV. STAT. ANN. §§ 20-1243.03 to 1243.04 (2006) (limited to seniors).	
Arkansas	ARK. INS. RULE & REG. 82 (2004) (limited to seniors).	See Directive 2-2006; see BULLETIN 11-7-2007.
California		CAL. INS. CODE § 10509.8 (1990/2004) (Unnecessary replacements of annuities for seniors); See Letter Oct. 5, 2005.
Colorado	COLO. ADMIN. INS. REG. 4-1-11 (2004) (proposed amendment to remove limitation to seniors, Effective Aug. 1, 2006).	
Connecticut	CONN. ADMIN. CODE tit. 38a § 819-70 to 819-76 pending (2004) (limited to seniors).	
Delaware	DEL. ADMIN. CODE tit. 18 § 1214 (effective July 1, 2006) (limited to seniors).	
District of Columbia	NO ACTION TO DATE	
Florida	FLA. STAT. § 627.4554 (2004) (limited to seniors).	
Georgia	GA. ADMIN. COMP. Ch. 120-2- 94.01 to 120-2-94.10 (2006).	
Guam	NO ACTION TO DATE	
Hawaii	NO ACTION TO DATE	
Idaho	IDAHO CODE ANN. § 41-1940 (2005) (Small portion of model and authority to adopt regulation); IDAHO ADMIN. CODE r. 18.01.09 (2005/2008).	

**SUITABILITY IN ANNUITY TRANSACTIONS  
MODEL REGULATION**

<b>NAIC MEMBER</b>	<b>MODEL/SIMILAR LEGIS.</b>	<b>RELATED LEGIS./REGS.</b>
Nebraska	NO ACTION TO DATE	
Nevada	LCB File RO76-05 (2005) (Not limited to seniors).	
New Hampshire	NO ACTION TO DATE	
New Jersey		N.J. REV. STAT. § 17B:25-20 (1981/2005) (Limits maturity dates and surrender charges for annuities sold to seniors).
New Mexico	NO ACTION TO DATE	
New York	NO ACTION TO DATE	
North Carolina	N.C. GEN. STAT. §§ 58-60-150 to 58-60-180 (2007).	N.C. ADMIN. CODE tit. 11 ch. 12 § .0420 (1976/1992) (Submit suitability form).
North Dakota	N.D. CENT. CODE §§ 26.1-34.2- 01 to 26.1-34.2-05 (2007).	N.D. ADMIN. CODE § 45-02-02-14 (Recommendations to consumers over age 65); § 45-04-04-07 (1984).
Northern Marianas	NO ACTION TO DATE	
Ohio	NO ACTION TO DATE	
Oklahoma	OKLA. ADMIN. CODE §§ 365:25-17-1 to 365:25-17-11 (2005/2007).	
Oregon		OR. ADMIN. R. 836-080-0090 (2004).
Pennsylvania	NO ACTION TO DATE	
Puerto Rico	NO ACTION TO DATE	
Rhode Island	R.I. REGS. R27-12-1 to 27-12-10 (2006).	
South Carolina	SB 967 pending (2006).	
South Dakota		S.D. ADMIN. R § 58-28-33 (2003).
Tennessee	NO ACTION TO DATE	
Texas		TEX. CODE ANN. INS. §§ 1115.001 to 1115.102 (2007).

**SUITABILITY IN ANNUITY TRANSACTIONS  
MODEL REGULATION**

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Vermont	NO ACTION TO DATE	
Virgin Islands	NO ACTION TO DATE	
Virginia	NO ACTION TO DATE	
Washington	NO ACTION TO DATE	
West Virginia	W. VA. REGS. §§ 5-45-10 to 5-45-50 (2007).	
Wisconsin	WIS. STAT. § 628.347 (2004).	
Wyoming		WYO. INS. REGS. ch. 27 § 11 (1968/1997) (Variable contract regulation).

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

The date following each state indicates the last time information for the state was reviewed/changed.

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
AL (8/06)	No provision			
AK (8/06)	No provision			
AZ (8/06)	§§ 20-2602; 20-2608  §§ 20-1243.03; 20-1243.04	Variable life insurance  Annuities to seniors	Insurers  Insurers and producers	Insurers are to maintain written standards of suitability.  Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.
AR (8/06)	§ 20-2608; Ins. Reg. 33  Ins. Reg. 82; Bulletin 13-2004	Variable life insurance  Annuities to seniors	Insurers  Insurers and producers	Insurers are to maintain written standards of suitability.  Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.
CA (8/06)	Reg. tit. 10 § 2534.2  Ins. § 789.8  Ins. §§ 10509.3; 10509.8	Variable life insurance  Life insurance and annuities  Replacements of annuities to seniors 65 years of age and older	Insurers, officers, directors, employees, affiliates and producers  Producers  Producer or insurer	Insurers are to adopt by formal action and file with the Commissioner written standards of suitability.  Requires producers to make written disclosure to consumers 64 years of age or older that they may wish to obtain advice prior to the purchase of life or annuity products being offered.  It is a violation to recommend an unnecessary replacement of an annuity. It is unnecessary if it involves a surrender charge and the replacement does not confer a substantial economic benefit.



**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
CO (8/06)	Ins. Reg. 4-1-3	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability to assure that the sales of products are not unsuitable based on information furnished. Producers are to make reasonable inquiry of applicants concerning their insurance and investment objectives, financial situation and needs and must take into account any other information known to the insurer or to the producer making the recommendation.
	Ins. Reg. 4-1-11	Annuities to seniors	Insurers and producers	Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products
CT (8/06)	Reg. 38a-433-3	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability to assure that the sales products are not unsuitable based on information furnished. Producers are to make reasonable inquiry of applicants concerning their insurance and investment objectives, financial situation and needs, and taking into account any other information known to the insurer or to the producer making the recommendation.
	Bulletin IC-17	Deferred annuities	Producers	Producers are to maintain records, for potential review by the Insurance Department, that support the suitability of their recommendations regarding the purchase of annuities.

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
DE (8/06)	Reg. tit. 18 § 1205  <i>Reg. tit. 18 § 1214 pending (2005)</i>	Variable life insurance  <i>Annuities to seniors</i>	Insurers and producers  <i>Insurers and producers</i>	Insurers are to maintain standards of suitability specifying that no recommendation shall be made in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of applicants concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation  <i>Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.</i>
DC (8/06)	Reg. tit. 26 § 2704	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability to assure that the sales of products are not unsuitable based on information furnished. Producers are to make reasonable inquiry of applicants concerning their insurance and investment objectives, financial situation and needs, and to take into account any other information known to the insurer or to the producer making the recommendation.
FL (8/06)	§ 627.4554	Annuities to seniors	Insurers and producers	Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
GA (8/06)	Reg. ch. 120-2-32-.04	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of applicants concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
HI (8/06)	No provision			
ID (8/06)	§ 41-1940	Annuities to seniors	Insurers and producers	Producer, or insurer where no producer is involved, shall have reasonable grounds to believe a recommendation is suitable, authority to adopt regulation.
	Ins. Reg. 18.01.16	Variable life insurance and variable annuities	Insurers and producers	Producers are to make a reasonable effort to ascertain facts from each individual prospect concerning the prospect's age, family responsibilities, estimated income, estimated worth, and other facts as are relevant to demonstrate the suitability of a variable contract as an investment by the individual concerned.
IL (8/06)	No provision			

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
IN (8/06)	<p>§§ 27-4-9-1 to 27-4-9-6</p> <p>Reg. 760:1-33-3; 760:1-33-8</p>	<p>Annuities to seniors</p> <p>Variable life insurance</p>	<p>Insurers and producers</p> <p>Insurers and producers</p>	<p>Producer, or insurer where no producer is involved, shall have reasonable grounds to believe a recommendation is suitable, authority to adopt regulation.</p> <p>Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of applicants concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.</p>
IA (8/06)	<p>Reg. 191-15.8</p> <p>Reg. 191-33.3</p>	<p>Life insurance and annuities</p> <p>Variable life insurance</p>	<p>Producers</p> <p>Insurers and producers</p>	<p>A producer shall not recommend the purchase, sale or exchange of any life insurance policy or annuity without reasonable grounds to believe that the recommendation is not unsuitable based upon reasonable inquiry concerning the person's insurance objectives, financial situation and needs, age and other relevant information known by the producer.</p> <p>Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of the applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.</p>

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
KS (8/06)	Reg. 40-2-14a	Life insurance and annuities	Producers	Producers are to make reasonable inquiry of the applicant concerning the applicant's insurance and investment objectives, financial situation and needs.
	Reg. 40-2-14a; Bulletin 2005-4; Opinion and Memorandum Re: Annuity Transactions (6/8/2005)	Life insurance and annuities	Insurers and producers	Prior to recommending a purchase or sale of a variable life insurance or variable annuity product, an insurance producer or insurer shall have reasonable grounds for believing the recommendation is suitable. Recommendations shall comply with minimum standards in the regulation.
KY (8/06)	Reg. 806 KAR 15:030	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
LA (8/06)	Reg. 37:XIII.8303	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
ME (8/06)	tit. 24-A § 2517	Annuities		Superintendent shall adopt rules governing the suitability of sales of annuities.
	Ins. Reg. ch. 300 Art. V § 3	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
	Ins. Reg. ch. 310 Art. V § 3	Annuities	Insurers and producers	Every insurer seeking authority to enter into the variable annuity business in this state shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. Such Standards of Suitability shall specify that no recommendations shall be made to an applicant to purchase a variable annuity contract and that no variable annuity contract shall be issued in the absence of reasonable grounds to believe that the purchase of such contract is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
MD (8/06)	Reg. 31.09.02.03	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
MA (8/06)	Reg. 211 CMR 95.02  Reg. 211 CMR 96.06 (eff. 11/05/06)	Variable life insurance  Annuities	Insurers, producers, agents, brokers and others involved with promotion, sale, marketing, and advertising of the insurer's product  Insurers and producers	Insurers are to file with the Commissioner a statement specifying the insurer's standards of suitability. No recommendations shall be made to an applicant and no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the agent.  <i>Insurers and producers 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.</i>

## SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
MI (8/06)	Reg. 500.844	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability. No recommendation shall be made to an applicant to purchase a life insurance policy and that no life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is suitable for an applicant on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
MN (8/06)	§ 60K.46	Life insurance and annuities	Producers	Must have reasonable grounds for believing that the recommendation is suitable for the customer and must make reasonable inquiries to determine suitability.
MS (8/06)	Ins. Reg. 84-101.3	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.



**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
MO (8/06)	Reg. tit. 20 § 400-1.030	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
MT (8/06)	No provision			
NE (8/06)	Reg. tit. 210 ch. 15 § 003	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
NV (8/06)	<i>LCB File R076-05 § 13 pending (2005)</i>	<i>Life insurance and annuities</i>	<i>Insurers and producers</i>	<i>Based on model 275, but not limited to annuities or seniors. A producer shall have reasonable grounds to make a determination that a recommendation is suitable. Insurers must maintain a system to supervise recommendations.</i>
NH (8/06)	Ins. Reg. 301.06	Life insurance	Insurers and producers	Reasonable inquiry shall be made to determine the suitability of any sale to a prospective buyer's insurance and annuity needs and means.

SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
NJ (8/06)	No provision			
NM (8/06)	Reg. tit. 13 § 9.8.10	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
NY (8/06)	Reg. tit. 11 § 15.3	Annuities	Insurer	No recommendation shall be made to an applicant in the absence of reasonable grounds to believe that the purchase of the contract is not unsuitable for the applicant on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance needs.
NC (8/06)	Reg. tit. 11 ch. 12.0435	Variable life insurance	Insurers and producers	Insurers are to adopt and file written standards of suitability. No recommendation shall be made to an applicant in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable for the applicant on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
	Reg. tit. 11 ch. 12.0420	Variable annuities	Insurers	Must provide to the department a copy of the company's suitability questionnaire.

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
ND (8/06)	Reg. 45-04-04-02	Variable life insurance	Insurers and producers	Insurers are to adopt and file written standards of suitability. No recommendation shall be made to an applicant in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable for the applicant on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
	Reg. 45-04-04-07	Variable life insurance	Insurers and producers	Application must contain questions designed to elicit information enabling a determination of suitability.
	Reg. 45-02-02-14	Life insurance and annuities	Producer	An insurance producer shall have reasonable grounds at the time of sale for believing that the recommendation is suitable for the consumer and shall make reasonable inquiries to determine suitability.
OH (8/06)	Reg. 3901-6-08	Variable life insurance	Insurers and agents	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.

## SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
OK (8/06)	Reg. §§ 365:25-17-1 to 365:25-17-11	Annuities sold to persons age 65 or older	Insurers and producers	Shall not make any recommendations misrepresenting or fraudulently or unfairly making incomplete comparisons regarding the terms of an annuity contract for the purpose of inducing the owner of contract to replace the contract. Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
OR (8/06)	Reg. 836-080-0090	Life insurance and annuities	Any person	May not recommend the purchase, sale or replacement of a life insurance policy or annuity without reasonable grounds to believe that the recommendation is not unsuitable based on reasonable inquiry concerning the consumer's insurance objectives, financial situation and needs.
PA (8/06)	Reg. tit. 31 § 82.14	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
PR (8/06)	No provision			
RI (8/06)	Reg. R27-12-006	Annuities to seniors	Insurers and producers	Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.
SC (8/06)	Reg. 38-69-530 pending SB 967(2006)	Annuities to seniors	Insurers and producers	Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.
	Reg. 69-12 Part B Art. III § 3	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
SD (8/06)	Reg. 58-28-33	Variable life insurance	Not specified	Director may promulgate rules related to standards for suitability giving substantial consideration to standards in the NAIC's Variable Life Insurance model regulation.
TN (8/06)	No provision			

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
TX (8/06)	Reg. 28 TAC 3.803	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
UT (8/06)	Reg. R 590-230-1 to 590-230-9	Annuities sold to persons age 65 or older	Insurers and producers	Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.
VT (8/06)	Ins. Reg. 88-3 Art. III § 3; Bulletin 129	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable for such applicant on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
VI (8/06)	No provision			

**SUITABILITY OF SALES OF LIFE INSURANCE AND ANNUITIES**

8/06

STATE	CITATION	APPLICABLE LINES	RESPONSIBLE PARTY	DUTIES
VA (8/06)	Reg. 14 VAC 5-80-50; 5-80-310	Variable life insurance	Insurers and producers	Insurers are to maintain written standards of suitability specifying that no recommendations shall be made to an applicant and that no policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable on the basis of information furnished. Producers are to make reasonable inquiry of an applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and consider any other information known to the insurer or to the producer making the recommendation.
WA (8/06)	No provision			
WV (8/06)	No provision			
WI (8/06)	Reg. § INS 2.16	Life insurance and annuities	Insurers and producers	No insurer or intermediary may recommend to a prospective buyer the purchase or replacement of any individual life insurance policy or annuity contract without reasonable grounds to believe that the recommendation is not unsuitable to the applicant. The insurer or intermediary shall make all necessary inquiries under the circumstances to determine that the purchase of the insurance is not unsuitable for the prospective buyer.
	§§ 628.347	Annuities sold to persons age 65 or older	Insurers and producers	Based on NAIC model 275. Requires insurers and producers who make recommendations to determine suitability. Insurers must maintain system to determine that procedures are being followed for its products.
WY (8/06)	Ins. Reg. ch. 27 § 11	Variable life insurance	Insurers and producers	Insurers shall require its agents to make a reasonable effort to ascertain facts from each individual prospect concerning the prospect's age, family responsibilities, estimated income, estimated worth, and other facts relevant to demonstrate the suitability of a variable contract as an investment by the individual.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the statutes and regulations cited should be consulted. The NAIC attempts to provide current information; however, readers should consult state law for additional adoptions.

## Attachment B

### NAIC AND STATE INITIATIVES RELATING TO MARKETING OF INDEXED INSURANCE PRODUCTS

#### **NAIC Initiatives:**

*Education and Training* – The NAIC Insurance Regulator Professional Designation Program was created in response to requests by regulators for a structured professional development path based on the NAIC curriculum. To comply with new, more rigorous instructional standards associated with the Designation Program, NAIC's curriculum has been re-developed and enhanced to include targeted learning outcomes, interactive teaching strategies, and the latest and most practical information participants need to support critical regulatory initiatives. See [http://www.naic.org/education\\_designation.htm](http://www.naic.org/education_designation.htm)

*Interstate Insurance Compact* – The Compact has been adopted by 31 States and Puerto Rico to date, representing one-half of the premium volume nationwide. The Compact established a multi-state public entity, the Interstate Insurance Product Regulation Commission ("IIPRC") which serves as an instrumentality of the Member States. The IIPRC is the central point of electronic filing for asset-based insurance products, including life insurance, annuities, disability income, and long term care insurance. Within one year of its establishment the IIPRC brought its central product filing operations on-line and received its first filings from insurers in June 2007. The Compact defines its speed-to-market mandate by providing a 60-day turnaround time for Compact filings. The IIPRC continues to receive initial filings from large, medium and small sized insurers as companies begin to utilize the Compact's new national standards which took effect in 2007. The IIPRC is working to build the highest caliber, modern electronic product filing platform to meet the increasing Compact filings anticipated as the IIPRC completes its operational build-out in 2008.

*Suitability of Annuity Sales* – 25 states have adopted the model regulation. SD and IA have also adopted the model. AK, NY, OH, & TN have not adopted the model. Alaska is a month or two away from adoption. The NAIC wants authority for the Life Insurance and Annuities A Committee to draft model regulation on senior sales designations (Senior Specific Designations Model Regulation). The Committee has already developed a model CONSUMER ALERT.<sup>1</sup> The NAIC also adopted a charge for the Suitability of Annuity Sales (A) Working Group to improve the regulation of annuity sales (Suitability in Annuity Transactions Model Regulation) and to provide insurers uniform guidance in developing agent training, supervision and monitoring standards in order to better protect annuity consumers from unsuitable sales and abusive sales and marketing practices.

---

<sup>1</sup> SENIORS BEWARE CONSUMER ALERT & INSURER AND PRODUCER BULLETIN IMPROPER USE OF CERTAIN DESIGNATIONS/TITLES TARGETING SENIOR PURCHASERS: This alert and bulletin addresses the use of certain senior-specific designations used in connections with the sale of life insurance and annuity products to seniors. The alert and bulletin may be used by State insurance departments as a template for bulletins to be issued in their own states.



*Annuity Disclosure* - The ACLI has also taken on the initiative of improving Annuity Disclosure by creating the CEO Task Force on Annuities to bridge the Annuity information gap, driven by concern over consumer misunderstanding. The CEOs priorities are: Uniform adoption of NAIC Disclosure Model Regulation and Consumer Empowerment through improved simplified disclosure. The CEOs want to enhance current disclosure requirements under state insurance and federal securities law by using Templates for fixed and indexed annuities based on the NAIC disclosure model and Templates for variable annuities that follows federal securities laws.

*Producers Licensing* – Uniformity and reciprocity for producers licensing has been a goal of the NAIC for years. The concept of uniformity relates to resident licensing. The NAIC has adopted 37 Uniform Resident Licensing Standards that focus on eight broad areas, including: 1) licensing qualifications; 2) pre-licensing education; 3) licensing testing; 4) integrity/background check standards; 5) license application process; 6) appointment process; 7) continuing education requirements; and 8) limited lines. Reciprocity addresses non-resident licensing. The NAIC has identified four conditions that a state must satisfy in order for the state to considered “reciprocal.”<sup>2</sup> In 2007, the NAIC identified producer licensing reform as one of its key strategic issues. As a result, the NAIC conducted a national, comprehensive, producer licensing assessment and issued the NAIC Producer Licensing Assessment Aggregate Report of Findings. Following the release of the report, the NAIC Executive Committee reconstituted the NARAB Working Group and the NAIC Producers Licensing Working Group began working on a Producer Licensing Handbook. On February 19, 2008, the NAIC Producers Licensing Working Group (PL WG) released its comprehensive assessment of the producer licensing laws, practices, and processes throughout the United States. The Report focuses on the reciprocity and uniformity that currently exists across the 50 states, the District of Columbia and Puerto Rico. It serves as a snapshot of the nation’s producer licensing regulation, highlighting areas where uniformity and reciprocity is found and pointing out not only where uniformity or reciprocity is lacking, but also providing suggestions for overcoming roadblocks to increased interstate consistency.

Following the assurance of the Report, the NAIC Executive Committee reconstituted the NARAB (EX) Working Group which was given three charges by the Executive Committee to: 1)

---

<sup>2</sup> In order to be considered reciprocal for non-resident producer licensing, a state must satisfy the following four conditions: (1) Permit a producer with a resident license for selling and soliciting insurance in its home state to receive a license to sell or solicit the purchase of insurance as a non-resident to the same extent that the producer is permitted to sell or solicit insurance in its home state, if the home state also licenses reciprocally, without satisfying any additional requirements other than submitting (a) a request for licensure; (b) the application for licensure submitted to the home state; (c) proof of licensure and good standing in home state; and (d) payment of any requisite fee; (2) Acceptance of a producer's satisfaction of its home state's continuing education requirements as satisfying that state's continuing education requirements, provided that the home state recognizes continuing education satisfaction on a reciprocal basis; (3) No requirements are imposed upon any producer to be licensed or otherwise qualified to do business as a non-resident that have the effect of limiting or conditioning that producer's activities because of its residence or place of operations (excepting countersignature requirements); and (4) Each state meeting (1), (2), and (3) grants reciprocity to residents of all other states that satisfy (1), (2), and (3).

Evaluate the reciprocity status of states that are not currently certified as reciprocal but those producer licensing laws have been reviewed by the NAIC Legal Division as eligible for reciprocity certification; 2) Evaluate the reciprocity standards adopted in 2002 and recommend any revisions or changes to address the issues identified in the Report; and 3) Evaluate key findings and issues regarding disparate business entity licensing laws, regulations, and practices identified in the Report and provide policymaking recommendations for simplifying and standardizing the business entity licensing process.

On February 29, 2008, the NAIC issued a first draft of the NAIC State Licensing Handbook. This Handbook is primarily the work of Roseanne Mead of Iowa and is intended to be adopted by the PL Working Group after comments have been received.

*NAIC Unfair Trade Practices Act* – A draft dated March 27, 2008 was proposed by Commissioner McCarty to direct the Committee members' attention to the current proposed travel underwriting revisions. The proposed travel underwriting revisions to the UTPA was adopted at the Life Insurance and Annuity (A) Committee Meeting, March 30, 2008 in Orlando, Florida.

#### **State Insurance Commission Initiatives:**

*Annuity Disclosure* – The Iowa Insurance Division is joining the ACLI and the NAFA to promote use of an annuity disclosure template developed by the ACLI and the Association for Insured Retirement Solutions. The template will not be used in marketing variable annuities. The ACLI and NAVA are also planning to expand the initiative into marketing variable annuities. The Iowa Insurance Division is the first state to participate in a joint state insurance division-annuity industry initiative designed to ensure consumers receive new, consumer-friendly information about two retirement planning products. Sponsored by the ACLI and NAVA and the Association for Insured Retirement Solutions, the initiative seeks to demystify fixed and index annuities. The annuity templates build on requirements found in the NAIC Annuity Disclosure Model Law/Regulation, which Iowa and 13 other states have adopted.

The Wisconsin Commissioner announced the creation of a special committee (The Annuity Sales Supervision Advisory Committee) to analyze the annuity sales marketplace for the period of August 1, 2007 through April 30, 2009. The committee's charge is to make recommendations to better protect Wisconsin annuity consumers from unsuitable and abusive sales in the market place.

*Senior Designations* – Iowa Insurance Division has circulated a Flyer for Seniors Against Investment Fraud, called "Beware of Bogus Titles". The Flyer states seniors should carefully check the credentials of individuals holding themselves out as "Senior Specialists" or similar designations. Iowa has also issued a Bulletin 07-05, which are guidelines regarding the proper use of designations by producers. This bulletin applies to the marketing and sales of fixed and variable life insurance and annuities and long term care insurance.

*Limitations on Illustrations* – To assist with the Iowa Commissioner’s review, all insurers who are using illustrations in the sale of fixed annuities are requested to file through SERFF copies of their illustrations related to both, products already approved and to new filings of products.

Also, Iowa Insurance Division has developed temporary guidelines that the Division will be using in reviewing the fixed annuity illustrations that are filed.

*Producers Licensing* – An On-line Licensing Service is provided by the NAIC, to the Iowa Insurance Division.

*Suitability of Annuity Sales* - Florida on May 2, 2008, approved an Annuity Suitability Bill (Senate Bill 2082). The bill is based on the NAIC Suitability in Annuity Transactions Model Regulation, as amended in 2006, which requires that life insurance companies ensure that their annuity products are marketed and sold to suitable parties.

The state of Connecticut on January 30, 2008, issued a News Release concerning 8 tips to use in considering an annuity. The Release should help the misunderstanding about this investment product because it cost American consumers millions of dollars and result in thousands of consumer complaints every year.

Two bills involving annuity sales to seniors have been introduced in the Connecticut legislature. The Connecticut Select Committee on Aging introduced Raised S.B. No. 155, “An Act Prohibiting the Sale of Variable Annuity Contracts to Seniors.” Also, the House Insurance and Real Estate Committee introduced Raised Bill No. 5158, “An Act Making Changes to the Insurance Statutes,” which requires the Insurance Commissioner to establish standards for sales to seniors.

Annuity sales to Alabamians will come under closer scrutiny from a new task force created by the Insurance Commissioner. The Alabama Annuities Task Force will work jointly on investigations of annuity sales, particularly as they apply to the suitability of the products sold to Alabama consumers.

The California Department of Insurance has published a brochure to educate the consumer on Annuity sales. This brochure is called “A Suitable Match: Best Practices for Annuity Sales. The Brochure states that if insurers follow the best practices discussed in this report, the chances are that the promise of an annuity – that the purchaser has found a financially suitable match – will be kept.