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March 29, 2022

To: NAIC E-Commerce Working Group (the “Working Group”)

**Re: State Laws Surveys/Framework**

On behalf of our members, the Insured Retirement Institute (IRI)<sup>1</sup> appreciates the opportunity to provide comments on the Framework put together by the Working Group following responses to its State Laws Survey. We’d also like to reiterate our appreciation for the Working Group’s efforts to gather this information and examine what recommendations will be most meaningful for regulators, the industry, and consumers. This letter will 1) highlight our continued recommendations and suggestions for the Working Group to consider, and 2) call attention to specific items within the Framework where we’d like to provide additional information or detail to address some of the concerns or questions raised by the Working Group. We hope that you find this useful, and we look forward to hearing more from the Working Group as to next steps.

First, IRI members recommend that the Working Group draft a Model Bulletin or Guidance to address many of the issues outlined in the Framework. As indicated in our response to the Business Impact Survey released by the Working Group, our members support either a model bulletin or model guidance to give confidence that operating in the modern world is consistent with their regulatory obligations. Ideally, this bulletin or guidance would address the areas of electronic delivery, electronic applications, electronic signatures, and remote notarization, and lend support for modernization and support of certain technologies. Specifically, we believe it would be most helpful for this bulletin or guidance to address the following items:

- 1) Support for the need to modernize/revise the affirmative consumer consent and reasonable demonstration requirements in the Uniform Electronic Transactions Act (UETA) and Electronic Signatures in Global and National Commerce Act (E-Sign).**

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<sup>1</sup> The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., include the top 10 distributors of annuities ranked by assets under management, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

Receiving documents electronically has become the preferred and expected method for the majority of consumers, and we believe that the current requirements need to be modernized to optimize consumer experiences. To best meet consumer expectations, the industry supports e-delivery of documents as the default option, with consumers “opting out” of e-delivery in order to receive paper documents.

We understand that there will always be some consumers that want paper, and this approach will not take that away from those consumers. We simply believe that an electronic default approach 1) is more aligned with increasing consumer expectations that more business (beyond just insurance) be conducted electronically, 2) gives regulators and companies tools, such as detailed audit trails (which paper currently lacks), to identify and deter fraud, and 3) is more environmentally conscious.

We’d also like to note that we have some concern with the note in the Framework that a possible solution would be to “differentiate between two types of insurers and establish e-insurers/product (opt-out) and historically paper (opt-in).” While it’s not clear from the Framework what types of insurers or products would be included in each category, it seems as if this would simply be adding another unnecessary layer of complexity (and potentially another impediment) to uniform modernization. This could also provide some insurers with a competitive advantage and could also cause confusion for consumers as to why the processes would be different.

**2) Support for utilization of an electronic signature as opposed to a “wet signature” whenever possible and as a default method.**

Similar to the reasons outlined above for electronic delivery, we believe an electronic signature default approach is appropriate. There are a number of guardrails and consumer protections built into an e-signature process, and when a consumer e-signs a document, they are making a conscious decision to do so, just as when they physically sign a document, even though the format is different. Furthermore, an e-signature may have tools, like an audit trail and a time/location stamp that help identify or deter fraud.

**3) Clarification that all annuity-related disclosures and notices under NAIC model regulations do not require wet signatures or initials and may be delivered electronically.**

Our members support modernization of model regulations that address annuity-related disclosures and notices, such as the Life Insurance and Annuities Replacement Model Regulation, the Suitability in Annuity Transactions Model Regulation, and the Annuity Disclosure Model Regulation. This will bring them up to date since technology has evolved since some of these model regulations were first developed. At this juncture, however,

we think that it may be possible to simply address this via a Model Bulletin or Guidance, and we'd recommend that the Working Group consider doing so. We'd also request that the Working Group ensure that any Market Conduct Guidelines appropriately indicate that electronic delivery and signatures are sufficient to meet these requirements. If possible, we'd request that the Working Group work closely with industry and other stakeholders to ensure that any guidance regarding these model regulations will address the current impediments and issues to conducting business electronically.

Second, in addition to development of a Model Bulletin or Guidance, IRI recommends that the Working Group encourage adoption of NAIC model regulations and commit to working with states to seek uniform standards when it comes to various forms, documents, and other online materials, as noted in the Framework. Even one outlier can be an impediment to making any process/technology changes, so increased uniformity when possible is very important.

Finally, we understand and are appreciative of the fact that there are numerous issues that this Working Group is looking at as result of this work, and we acknowledge that a Model Bulletin or Guidance will take time to draft, solicit stakeholder feedback, and finalize. As such, to help all interested parties know what to expect next in the Working Group's process, we also request that the Working Group put together a draft timeline or workplan in the interim. And, when it comes time to begin work on the Model Bulletin or Guidance, we look forward to providing what we hope will be constructive, meaningful feedback. We'd also be happy to proactively assist with drafting some of the language, if the Working Group would find that helpful.

On behalf of IRI and our members, thank you again for the opportunity to provide these comments. We would be happy to discuss further with you and look forward to continued collaboration and partnership with the Working Group.

Sincerely,

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