

Draft Pending Adoption

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Life Insurance and Annuities (A) Committee
Columbus, Ohio
August 12, 2026

The Life Insurance and Annuities (A) Committee met in Columbus, OH, Aug. 12, 2026. The following Committee members participated: Doug Ommen, Chair, and Johanna Nagel (IA); Anita G. Fox, Vice Chair (MI); Mark Fowler (AL); Holly W. Lambert represented by Scott Shover (IN); Susan Ochs represented by David Wolf (NJ); Kaitlin Asrow (NY); Judith L. French (OH); TK Keen and Joshua Blakey (OR); Carter Lawrence (TN); Amanda Crawford and Rachel Hemphill (TX); and Nathan Houdek and Lauren Van Buren (WI). Also participating were: Julia Dreier and Ben Slutsker (MN).

1. Adopted its July 13, June 15, and 2026 Spring National Meeting Minutes

The Committee met July 13 and June 15. During these meetings, it took the following action: 1) adopted the 2027 *Valuation Manual* amendments; 2) approved a Request for NAIC Model Law Development to revise the *Annuity Disclosure Model Regulation* (#245); 3) heard a presentation from the Life Insurance Consumer Advocacy Center (LICAC) and KB Regulatory Solutions on the degradation of the Social Security Administration's Death Master File (DMF); and 4) heard a presentation from LICAC on indexed universal life (IUL) and premium financing arrangements.

Director French made a motion, seconded by Commissioner Houdek, to adopt the Committee's July 13 (Attachment One), June 15 (Attachment Two), and March 23 (*see NAIC Proceedings – Fall 2025, Life Insurance and Annuities (A) Committee*) minutes. The motion passed unanimously.

2. Adopted the Reports of its Task Force and Working Groups

A. Life Actuarial (A) Task Force

Hemphill said the Life Actuarial (A) Task Force met Aug. 10–11, 2026, and shared some highlights from its meetings. The Task Force continued to discuss the potential retrospective application of *Valuation Manual* (VM)-22, Requirements for Principle-Based Reserves for Non-Variable Annuities. The discussion focused on what support companies should provide when requesting retrospective application of VM-22. There will be a VM-22 (A) Subgroup-level exposure requesting input on potential language that could be added to the *Valuation Manual* to allow for VM-22 retrospective application, followed by further discussion by the VM-22 Subgroup and the Task Force.

Hemphill said the Task Force also discussed asset portfolio segmentation between principle-based reserves (PBR) and pre-PBR lines of business, focusing on potential reporting to ensure that the modeled asset segmentation and strategy reflect the actual investment policy, strategy, and asset liability management approach of the company. There was a conceptual exposure through Sept. 10.

The Task Force discussed potential refinements to GOES Model Governance Framework as part of ongoing maintenance.

B. Annuity Buyer's Guide (A) Working Group

Van Buren gave the report of the Annuity Buyer's Guide Working Group. Since the Spring National Meeting, the Working Group met twice. The first meeting was April 20 to discuss comments received on the March 16 draft of

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the *NAIC Annuity Buyer's Guide*. Following that meeting, the drafting group met nine times over the next three months. The Working Group last met on Aug. 4 to review a revised draft buyer's guide, dated Aug. 3. The Aug. 3 draft buyer's guide was exposed for a 45-day public comment period ending Sept. 18. The Working Group plans to meet Sept. 24 to discuss any comments received.

C. Annuity Suitability (A) Working Group

Nagel said that the Annuity Suitability (A) Working Group had made progress in each of its three ongoing projects. The Working Group's focus since the Spring National Meeting has been on developing a series of annuity training webinars in conjunction with the NAIC Education & Training Department. Four regulator-only webinars were held. The sessions were: "Market Conduct Analysis/Exams: A Rhode Island Approach" on Aug. 5, with 322 attendees; "Annuity Investigations of Potential Misconduct" on July 15, with 457 attendees; "*Suitability in Annuity Transactions Model Regulation (#275) Requirements*" on July 1, with 392 attendees; and "Annuities 101" on June 10, with 761 attendees. For those unable to attend live, recordings are available on the Compass platform. Nagel reminded the Committee that specialized training for attorneys, investigators, and examiners is being offered as part of the upcoming Insurance Summit. This training includes an in-person deposition workshop for attorney regulators on Sept. 28.

Nagel said the Working Group's second project is to draft a white paper to communicate annuity suitability compliance, commonly observed practices, and potential best practices. A draft framework was distributed, and input was requested as to any "best" practices or procedures insurers have implemented to satisfy the supervisory obligations of Model #275, as well as areas where there have been compliance challenges or confusion. The Working Group received a limited number of comments. The next Working Group meeting will be scheduled for early September.

Nagel said the third project the Working Group is working on involves finding a searchable platform for state department of insurance (DOI) administrative law decisions. Evaluation of existing platforms, as well as the feasibility of developing or augmenting a platform, is underway. The platform needs a robust system with comprehensive search capabilities across various jurisdictions. Current discussions are focused on cost, data sourcing, and user access.

D. Life Insurance and Annuities Illustrations (A) Working Group

Slutsker explained that the Life Insurance and Annuities Illustrations (A) Working Group has been very busy. The Working Group met Aug. 6, July 30, June 2, May 27, and March 31. State insurance regulators are concerned with annuity illustrations that show double-digit annual returns accumulating over multiple decades and question whether the actual contract performance will meet consumer expectations.

Slutsker said there are three primary causes for these high historical returns being shown: 1) backfitted indices; 2) nonguaranteed elements (rules applied to the indices); and 3) projections of recent favorable performance into the future.

Slutsker said the Working Group met multiple times and exposed questions to solicit ideas and feedback on how to address regulators' concerns. Slutsker said the Working Group made two decisions after some initial calls: 1) pursue an interim solution that addresses delays in adopting and implementing the model in individual states; and 2) revise Model #245. The Committee approved a Request for NAIC Model Law Development during its July 13 meeting, and the Executive (EX) Committee will consider the request during its Aug. 13 meeting.

Slutsker explained the impact in states that have adopted the current Model #245. He said that Model #245 has reduced 50% of the fixed index annuity maximum returns observed, by an average of 5% to 6%. He has also

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observed situations in which Model #245 was ineffective in reducing rates for certain carriers. Therefore, the Working Group concluded that additional enhancements should be made to Model #245, beyond just the prohibition against back-fitting.

The Working Group discussed ideas submitted by interested parties and state insurance regulators on how to revise Model #245 to address unrealistic illustrations. Slutsker said he scheduled four meetings to build consensus on key decisions for potential edits to Model #245. Two meetings have taken place, and the Working Group agreed to pursue language to address the following concepts:

- **Reduce the illustration length.** The Working Group agreed that illustrations could be reduced through shorter illustration periods, reducing redundancy between certain sections in the illustration, and combining or eliminating numerical tables where appropriate.
- **Review disclosures.** The Working Group agreed that more disclosures are not necessarily needed, but current disclosures have had limited impact in certain instances.
- **Require accountability.** The Working Group agreed that a company officer should sign an attestation related to compliance with Model #245.
- **Do not permit hypothetical returns.** The Working Group agreed that the illustration should not include historical illustrated returns for years in which the index being illustrated did not actually exist.

Slutsker said the decisions that have been made are preliminary and will be revisited as specific language is drafted to ensure all the revisions are cohesive. He said that he anticipates addressing the following issues during the Working Group's upcoming meetings: 1) how to illustrate caps and participation rates when the current levels may not be appropriate for a historical period; 2) whether to require supplemental scenarios and information related to illustrated returns; and 3) whether to pursue an actuarial guideline or model bulletin for a stopgap solution until states adopt the updated model.

Slutsker said that after these decisions are made, the Working Group will have the broad conceptual parameters within which to begin collecting proposed redline edits to Model #245. Slutsker said another issue he anticipates is how to address registered index-linked annuities (RILAs), which are currently outside the scope of Model #245.

Director Fox said it is important to take a thorough look at Model #245 to identify all relevant issues and ensure that consumers are protected. She said the review also should consider how industry can help achieve that goal, support state adoption of the revised model, and create a more uniform standard across the country.

Director Fox made a motion, seconded by Commissioner Fowler, to adopt the following reports: Life Actuarial (A) Task Force; Annuity Buyer's Guide (A) Working Group, including its Aug. 4 (Attachment Three) and April 20 (Attachment Four) minutes; Annuity Suitability (A) Working Group; and Life Insurance and Annuities Illustrations (A) Working Group, including its Aug. 6 (Attachment Five), July 30 (Attachment Six), June 2 (Attachment Seven), May 27 (Attachment Eight), and March 31 (Attachment Nine) minutes. The motion passed unanimously.

3. Heard a Presentation on State and Federal Regulation of RILAs

Commissioner Ommen explained that the next agenda items are about RILAs.

RILAs are insurance products and also securities subject to both state insurance regulation and federal securities jurisdiction. In 2024, the Interstate Insurance Product Regulation Commission (Compact) adopted product standards for RILAs. Also in 2024, the U.S. Securities and Exchange Commission (SEC) adopted regulations for insurers to register RILAs under federal law. These regulatory actions have helped pave the way for RILAs to occupy shelf space in the retirement market alongside fixed annuities (FAs), fixed indexed annuities (FIAs), and variable annuities (VAs).

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Commissioner Ommen referenced a chart showing the rapid growth in indexed annuities next to even more rapid growth of RILAs. He wanted to make sure Committee members are aware of the impact of this particular product on the retirement market. While Model #245 does not currently apply to RILAs, many financial professionals who are licensed for both securities and insurance consider RILAs as an option adjacent to FIAs. State insurance regulators need to consider the federal framework in their review of FIAs. State insurance regulators are seeing marketing materials for RILAs that depict historical performance that may also be creating expectations of annual index crediting performance of more than 25% annually.

Commissioner Ommen introduced Richard Choi (Carlton Fields). Commissioner Ommen said he invited Choi to share his knowledge as a legal practitioner about with the application of federal securities law to RILAs. Choi's law firm gives legal advice to insurance companies on compliance. Choi said he has been practicing federal securities law regulation for more than 38 years, focusing principally on the regulation of investment companies, broker-dealers, advisors, and registered insurance products. He is part of a team that also focuses on fixed products.

Choi said the SEC defines a RILA as an annuity: 1) that is deemed to be a security subject to regulation by the SEC, offered or sold in a registered offering; 2) that is issued by an insurance company subject to supervision by the state insurance commissioner or the equivalent; 3) that is not issued by an investment company; and 4) whose contract value will earn positive or negative interest based, in part, on the performance of any index, rate or benchmark. Choi emphasized that this SEC definition of RILA presupposes that the RILA will also be regulated as an insurance product at the state level.

Choi explained that the SEC has a three-part mission: 1) to protect investors; 2) to maintain fair, orderly and efficient markets; and 3) to facilitate capital formation. Choi observed that the SEC's mission aligns with state insurance regulators' mission.

Choi explained that SEC regulation is disclosure-based, not prudential-based. There are disclosures that must be used and must meet certain requirements. He explained that certain types of permissible communications fall into three categories. The first is the statutory or final prospectus. This is the key disclosure that the SEC reviews. The second is the permitted omitting prospectus, which is a document that contains less information than in the final prospectus and must satisfy certain SEC rules. The third is supplemental sales material, which is any material accompanied or preceded by a prospectus.

Federal securities laws require periodic reporting by issuers of securities products. However, the SEC adopted a rule to exempt issuers of insurance products, including RILAs, from these periodic reporting requirements, subject to certain conditions. Federal securities laws also impose liability for material misstatements or omissions in the registration statement or in prospectuses and oral communications. There is also liability for fraud in connection with the offer or sale of securities.

Choi said the principal means of implementing the disclosure framework is through the registration of securities. RILAs must register on the same form as VAs, with some differences. RILAs must include extensive disclosure of information about RILAs in the statutory prospectus, including: 1) product features, including index-linked options, crediting rate methodology and examples, and interim values (for liquidity events before the end of a crediting period); 2) fees and expenses; 3) principal risks; 4) historical index performance with an overlay of prescribed cap and buffer; 5) purchases and contract value; and 6) surrenders and withdrawals.

Choi explained that the term free writing prospectus (FWP) means any written communication that constitutes an offer to sell or a solicitation of an offer to buy the securities related to a registered offering. The SEC rules allow the use of an FWP after the registration statement has been filed, and the FWP may include information not

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contained in the registration statement. FWP's that meet the requirements of the SEC rules will be deemed to be a permitted omitting prospectus.

Currently, the SEC Rule 482 permits advertisements that are not accompanied by or preceded by a prospectus. Advertisements under Rule 482 are deemed to be permitted, omitting prospectuses. Rule 482 does not currently apply to RILAs, but the SEC has recently proposed expanding it to include RILAs. The proposed expansion includes limits. A RILA would not be permitted to include performance information, including historical or hypothetical performance of the RILA or any element of the RILA, such as the historical application of upside limits. The proposed expansion would permit the inclusion in advertisements of historical index performance data to explain how a RILA works, in compliance with the SEC Form N-4 for advertisements. Additional conditions would apply to advertisements that contain fee or expense information for RILAs.

Choi explained that Rule 482 advertisements are filed with the Financial Industry Regulatory Authority (FINRA) for review. RILAs are not required, but they have been voluntarily submitting their sales material with FINRA for review. Under the proposed rule, RILA issuers could file RILA advertisements either with the SEC or with FINRA.

SEC Rule 156 makes it unlawful to use materially misleading sales literature in connection with the offer or sale of a RILA. Sales literature may be materially misleading if it contains an untrue statement of a material fact necessary to make a statement not misleading. Sales literature is defined broadly and includes any manner of communication used to offer, sell, or induce the sale of securities. When the SEC proposed applying Rule 156 to RILAs, it included numerous examples of how RILA sales material could be misleading. When the SEC adopted amendments to Rule 156 to cover RILAs, it provided additional examples of when an insurer should consider clarification, explanations, or limitations in its sales literature.

Choi made the point that SEC regulation of RILAs is not exclusive of state insurance regulation. In fact, certain SEC rules are predicated on the application of state insurance regulation with respect to RILAs.

Slutsker said the Life Insurance and Annuities Illustrations (A) Working Group has talked about illustrations as documents made by the company shown during discussions that producers are having with customers. He asked whether these SEC rules apply to company illustrations. Choi said they do and explained that Rule 156 standards apply to all forms of sales literature, including any written communication.

Ommen asked Choi to explain the role of FINRA a bit more. Choi said under the Investment Company Act, Section 24B, advertising by investment companies must be filed with the SEC. The SEC adopted Rule 24B, which says filings with FINRA are deemed to have been filed with the SEC. Under the proposed rule, RILAs would be required to file either with the SEC or FINRA.

Fox asked about the reference in the definition of RILAs about being subject to state insurance regulation and whether Choi could expand on what is envisioned under that definition. Choi explained that the SEC wants to ensure that the issuer of a RILA is a regulated entity subject to the supervision of state insurance authorities. The SEC does not specify the details of supervision, but its inclusion in the definition of a RILA clearly indicates that this product is regulated by the states.

4. Heard a Presentation on the Compact's Perspective on RILAs

Karen Schutter (Compact) explained that annuities exist on a continuum of risk and potential return—from highly secure, low-volatility options to market-linked, higher-growth products. As guarantees increase, potential returns typically decrease. As growth potential increases, exposure to market risk or variability increases. RILAs, or what the Compact refers to as index-linked variable annuities (ILVAs), made their debut in the marketplace between 2008 and 2010. These products are both insurance and registered with the SEC. Schutter explained how they are

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similar to and different from FIAs VAs. Like FIAs, ILVAs are generally tied to the performance of a market index, offering the opportunity to capture positive index returns up to a limit (cap rate), but unlike FIAs and more like VAs, they incur losses if the index return is negative. Like FIAs, ILVAs do not directly pass through all the direct investment experience. Unlike a VA, the downside is limited, and in return, there are limits on the upside return. ILVAs do not traditionally have a nonforfeiture benefit, which guarantees the contract holder receives some value in the case of lapse, default, or surrender.

Actuarial Guideline LIV—Nonforfeiture Requirements for Index-Linked Variable Annuity Products (AG 54) was adopted in 2023 and provides the conditions under which an ILVA is exempt from nonforfeiture. Once it was adopted, the Compact was able to finalize and adopt standards for ILVA contracts in April 2024. The standards require the use of the hypothetical portfolio methodology to determine interim values in the event of lapse, default, or surrender, and a clear explanation of how crediting features of the ILVA work. Blakey pointed out that with the interim value calculation, if someone takes out their money in the middle of an index term, the protections of the buffer and the floor most often will not apply. These are important consumer protections that do not apply in all circumstances.

Schutter said that 21 companies have filed one or more of their ILVA products through the Compact in the last two years. The Compact estimates it has approved around 40 ILVA products. ILVAs are the fastest-growing segment of the annuity market.

Slutsker asked whether the Company reviews any life or annuity marketing materials, and if not, whether there an opportunity to do so in the future. Schutter said the Compact does not have uniform standards for illustrations or other advertising around life or annuity products. There are advertising standards for long-term care products. The Compact Statute does provide the authority to create uniform standards for advertising, which is defined as “any material designed to create public interest in a product or to induce the public to purchase that product.” Schutter said that most states do not conduct a prior review or have detailed standards for life and annuities, but if the members so desired, the Compact could develop advertising standards for life and annuity products.

5. Heard an Overview of the SEC Proposed Rule and its Impact on RILAs

Shana Oppenheim (NAIC) said that on May 19, the SEC proposed amendments that would permit RILAs and registered market value adjustment (MVA) annuities to advertise using SEC Rule 482. The proposal follows the SEC’s 2024 amendments that allowed RILAs and MVA annuities to register on Form N-4, the same registration form used for most variable annuities.

When the SEC adopted the 2024 amendments, it deferred extending Rule 482 advertising eligibility to RILAs and MVA annuities pending further consideration. If adopted, the proposed rule would continue the SEC’s effort to harmonize the regulatory treatment of variable annuities and non-variable annuities.

Under the proposed rule, issuers and intermediaries of RILAs and MVA annuities would be permitted to use Rule 482 advertising materials. As with variable annuities today, advertisements could be provided to investors without being accompanied or preceded by a statutory prospectus.

Under the proposed rule, Rule 482 would not be available for advertisements that include performance information of a RILA. The SEC concluded that developing standardized performance requirements for RILAs is difficult for several reasons. RILAs typically cap gains while limiting losses, upside and downside parameters vary across products and circumstances, returns can be highly sensitive to purchase dates and crediting periods, and historical performance may not accurately reflect investor experience.

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Under the proposed rule, advertisements could include historical performance of an index to explain how a RILA works and would need to follow the same requirements that apply to RILA prospectus disclosure. Required elements include a bar chart showing annual index returns for the previous 10 years (or the life of the index if shorter), a hypothetical illustration applying a 5% cap and a -10% buffer, and a legend stating that index performance is not the performance of the RILA.

Under the proposed rule, if an advertisement discusses fees or expenses, or states there are none, it must disclose the maximum sales load or other nonrecurring fees, potential losses from contract adjustments, and any annual contract expenses. The disclosures must be based on the most recent prospectus, use the same methodology as the prospectus, and be presented at least as prominently as any other fee or expense information. In addition, RILA advertisements discussing fees or expenses would also be required to state that: 1) the insurer limits the amount an investor can earn on a RILA; 2) investor returns may be lower than index returns; and 3) in exchange for limited upside, investors receive some protection from index losses.

Oppenheim explained that Rule 482 advertisements for RILAs and MVA annuities would be required to be filed with either the SEC or FINRA. Advertisements would also be subject to all other Rule 482 requirements. She said that Rule 482 advertisements and sales literature for non-variable annuities would remain subject to Rule 156. Rule 156 provides guidance regarding whether statements of material fact in sales literature may be misleading. The SEC noted that its prior guidance on the application of Rule 156 to registered non-variable annuities continues to be relevant.

Oppenheim said the SEC requested public comment on several aspects of the proposal by July 27.

6. Heard an Introduction to the NAIC Consumer Representative Scholarship Recipient

Commissioner Ommen said the NAIC Consumer Representative Program is working to expand its scholarship in the area of life insurance. Scholarships were awarded to attend the Summer National Meeting. One of the scholarship recipients is Chia-Li Chien, associate professor of the Center for Financial Responsibility (CFR), School of Financial Planning at Texas Tech University College of Health and Human Sciences. Chien is interested in retirement security, life insurance, and annuities. Ommen said he hopes to have an opportunity to collaborate with Chien in the future.

Having no further business, the Life Insurance and Annuities (A) Committee adjourned.