



September 22, 2025

---

To: NAIC Annuity Suitability Working Group  
From: Federation of Americans for Consumer Choice

*Via email to: [jmatthews@naic.org](mailto:jmatthews@naic.org)*

**RE: Draft Safe Harbor Guidance Document**

The Federation of Americans for Consumer Choice (FACC) appreciates the opportunity to comment on the Annuity Best Interest Regulatory Guidance and Considerations – August 7, 2025, Draft (“Draft Guidance”). FACC is a trade organization representing independent agents and agencies selling fixed annuities, life insurance, and long-term care insurance that works to ensure fair and equitable regulatory treatment of guaranteed insurance products in the financial services marketplace.

In providing these comments, FACC would again emphasize the importance of preserving the original intent of the NAIC Model Suitability in Annuity Transactions Regulation, updated Spring 2020, which sought to balance strong consumer protections with regulatory consistency and efficiency. Expanding the NAIC Model Regulation’s requirements could inadvertently disrupt this balance, potentially hampering consumer choice, industry efficiency, and regulatory effectiveness. We believe this most recent version of the Draft Guidance is greatly improved over the prior draft and seemingly achieves to avoid these concerns and we thank the Working Group for its efforts in this regard.

FACC along with other industry trade organizations worked closely with the NAIC Annuity Suitability Working Group, comprised of state insurance regulators across the country, to develop the updated NAIC Model Regulation. The NAIC Model Regulation provides strong consumer protection while at the same time preserving consumer choice through carefully designed requirements consistent with different delivery systems in the marketplace.

FACC previously voiced concerns on the prior version of the Draft Guidance, which broadened the scope of the Model Regulation’s requirements in ways that could be disruptive and contrary to the original intent of the regulation. In particular, FACC was concerned with expanding insurer obligations regarding reliance on the Model Regulation’s section 6(E) safe harbor provisions. While such actions affect insurers directly, they also directly or indirectly impact agents and agencies – our members - who then may become subject to ambiguous, overlapping, or duplicative requirements that add cost and complexity to our business and can lead to confusion in the marketplace for our members’ clientele.

FACC believes the Draft Guidance has been improved to mitigate any suggestion insurers must confirm that comparable standards used by distribution firms are equivalent to standards in the Model Regulation for business not covered by the safe harbor. As FACC previously stated there is nothing in the Model

*The Federation of Americans for Consumer Choice, Inc. (FACC) is a 501(c)6 non-profit organization incorporated in the state of Texas whose members are independent marketing organizations, agencies, and agents engaged in the distribution of fixed insurance and annuity products. FACC promotes public policy recognizing the value of guaranteed insurance solutions and preserving freedom of choice for consumers who seek products and services from independent agents representing multiple carriers and product options.*



Regulation that calls for such duplicative review. Rather, the Model Regulation itself establishes that comparable standards are equivalent to and in effect supersede the Model Regulation standards and requirements. That is the very purpose of the safe harbor and, thus we are pleased the most recent draft of the guidance avoids the suggestion that distribution firms' comparable standards (e.g., SEC Regulation BI) are equivalent in all aspects to the standards in the Model Regulation.

FACC represents independent agents and agencies, some of whom rely on the safe harbor provisions, and many of whom do not. However, FACC has a vested interest either way in ensuring any guidance issued by the NAIC Annuity Working Group does not intentionally or inadvertently create new obligations or requirements not tethered to the provisions and intent of NAIC Model Regulation. Expanding insurer obligations under the safe harbor provisions would create inconsistencies, make compliance more complex without commensurate benefit, drain resources, and ultimately harm consumers by affecting choices and cost in the annuity marketplace.

FACC applauds the Working Group's efforts to provide guidance and clarity with respect to the safe harbor provisions and at the same time recognizes our industry responsibility to comply faithfully with applicable comparable standards.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim O'Brien". It is located below the word "Sincerely,".

Kim O'Brien, CEO