

PROJECT HISTORY - 2008

MODEL REGULATION ON THE USE OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS IN THE SALE OF LIFE INSURANCE AND ANNUITIES (#278)

1. Description of the project, issues addressed, etc.

Recently, states have become aware of an ever-growing issue and possible fraudulent marketing and sales activity related to the use of senior-specific certifications and professional designations in the sale of life insurance and annuities to seniors. Individuals often boast designations and credentials using terms such as “certified”, “accredited”, “retirement planner”, “senior advisor” or “senior consultant” to convince people they have special expertise to help seniors choose investment strategies. This may not be true in some cases. This model regulation establishes standards for the use of senior-specific certifications and professional designations by insurance producers in the sale of life insurance and annuities to all consumers regardless of age.

2. Name of group responsible for draft the model and states participating:

Life Insurance and Annuities (A) Committee

States Participating during the drafting process:

New York, Chair	Minnesota
Alabama	Missouri
California	Nebraska
Connecticut	Tennessee
District of Columbia	Utah
Florida	Wisconsin
Iowa	

3. Project authorized by what charge and date first given to the group:

The following charge was given in 2008:

Consider the development of a new model regulation on the use of senior-specific certifications and professional designations in connection with an offer, sale or purchase of life insurance or an annuity to seniors or the provision of advice to seniors in connection with an offer, sale or purchase of life insurance or annuity; and in developing the model regulation, the Committee may consult with the market regulation committee, as it considers appropriate.

4. A general description of the drafting process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated.

The Committee reviewed and discussed each draft and the comments submitted on each draft. Each draft was distributed to over 150 interested parties and posted on the NAIC Web site. Interested parties that commented on the drafts included industry groups such as the American Council of Life Insurers (ACLI) and the National Association of Insurance and Financial Advisors (NAIFA); the American College; the North American Securities Administrators Association (NASAA); and consumer groups, such as the Center for Economic Justice (CEJ) and AARP.

5. A general description of the due process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited.

The Committee reviewed and discussed an initial draft of the proposed model during the 2008 Summer National Meeting. The Committee discussed subsequent drafts during conference calls on June 25, 2008 and July 15, 2008. Prior to each conference call, a draft of the proposed model was circulated to interested parties for comment and posted on the NAIC Web site. All written comments received were discussed by the Committee. Interested parties were given the opportunity to comment during each conference call as well.

6. A discussion of the significant issues (items of some controversy) raised during the due process and the group's response.

One issue that arose during the drafting process concerned the scope of the proposed model—whether it should apply to all consumers or limited to seniors. The Committee decided that it was appropriate to protect consumers regardless of age. A similar issue arose as to whether the proposed model should be more broadly drafted to apply to all certifications and professional designations and not limited to senior-specific certifications and professional designations. After discussion, the Committee decided that the current problems in the market involved senior-specific certifications and professional designations. As such, the model should be narrowly drafted to apply to these types of certifications and professional designations.

Another issue arose concerning a provision in the proposed model that would carve out certain academic degrees and job titles from falling within its scope. Questions were also raised about whether academic degrees needed to be included. After discussion, the Committee decided to retain the provision with two changes. First, the Committee decided to delete the references to academic degrees. Second, the Committee decided to add language qualifying this carve out such that it would not apply to job titles that are used in a manner that would confuse or mislead a reasonable consumer.

Finally, an issue arose as to whether the proposed model should apply to insurers. After discussion, the Committee agreed to remove insurers from the scope of the proposed model. The Committee decided that insurance regulators have other regulatory tools to prevent insurers from engaging in the marketing practices targeted in the proposed model. As such, their inclusion in the proposed model was not necessary.

7. Any other important information (e.g., amending an accreditation standard).

None.