

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

Life Insurance and Annuities (A) Committee Dec. 9, 2025, Minutes

Life Insurance and Annuities (A) Committee Nov. 21, 2025, Minutes (Attachment One)

Annuity Suitability (A) Working Group Nov. 5, 2025, Minutes (Attachment Two)

Annuity Suitability (A) Working Group Oct. 7, 2025, Minutes (Attachment Three)

Annuity Suitability Safe Harbor Guidance Draft Aug.7, 2025 (Attachment Three-A)

Annuity Suitability Safe Harbor Guidance Revised Draft Redline (Attachment Three-B)

Annuity Suitability Safe Harbor Guidance Adopted Dec.9, 2025 (Attachment Four)

Draft Pending Adoption

Draft: 12/17/25

Life Insurance and Annuities (A) Committee
Hollywood, Florida
December 9, 2025

The Life Insurance and Annuities (A) Committee met in Hollywood, FL, Dec. 9, 2025. The following Committee members participated: Judith L. French, Chair (OH); Doug Ommen, Co-Vice Chair, and Mike Yanacheak (IA); Carter Lawrence, Co-Vice Chair (TN); Mark Fowler (AL); Anita G. Fox (MI); Eric Dunning (NE); Justin Zimmerman (NJ); Kaitlin Asrow represented by Mark McLeod (NY); Glen Mulready (OK); Elizabeth Kelleher Dwyer represented by Ray Santilli (RI); Cassie Brown represented by Rachel Hemphill (TX); Scott A. White (VA); and Nathan Houdek (WI).

1. Adopted its Nov. 21 Minutes

Director French said the Committee met Nov. 21 and took the following action: 1) adopted its Summer National Meeting minutes; 2) adopted its 2026 proposed charges and those of the Life Actuarial (A) Task Force; 3) adopted the 2026 Generally Recognized Expense Table (GRET); and 4) adopted revisions to *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies With Index-Based Interest Sold on or After December 14, 2020* (AG 49-A), limiting the disclosure of hypothetical index returns in years prior to an index's existence.

Commissioner Lawrence made a motion, seconded by Commissioner Mulready, to adopt the Committee's Nov. 21 minutes (Attachment One). The motion passed unanimously.

2. Adopted the Report of the Annuity Suitability (A) Working Group

Commissioner Ommen said the Annuity Suitability (A) Working Group has been working to finalize guidance on the safe harbor provision, Section 6E of the *Suitability in Annuity Transactions Model Regulation* (#275). Model #275 requires producers to act in the best interest of the consumer when recommending annuities and obligates insurers to establish supervisory systems that ensure recommendations address the consumer's insurance needs and financial objectives at the time of the transaction. To account for existing standards applicable to producers also acting as registered representatives, investment adviser representatives, or plan fiduciaries, Model #275 includes a safe harbor provision. The safe harbor provision allows insurance producers to satisfy Model #275's requirements if they comply with a comparable standard. There has been some concern about how insurers are interpreting and implementing the safe harbor provision.

Commissioner Ommen explained that a drafting group has met to draft safe harbor guidance language. After discussions with industry and other stakeholders, revised safe harbor guidance language was drafted for discussion and comment. The drafting group forwarded this draft to the Working Group for its review after the Summer National Meeting. The Working Group distributed the draft for a public comment period ending Sept. 22. The Working Group discussed comments received during its Oct. 7 meeting. Following that meeting, the Working Group developed a revised draft based on the comments received and distributed it for a public comment period ending Oct. 24. The Working Group met Nov. 5 and adopted the revised guidance document, which is now before the Committee for adoption.

Commissioner Ommen updated the Committee on annuity suitability training that occurred during the Insurance Summit in Kansas City, MO, on Sept. 17. Iowa, along with a number of other states, developed and provided the training on Model #275. The training consisted of two main parts. The first part consisted of three lectures to increase attendees' understanding of annuities and the best interest standard contained in Model #275. These morning sessions were open to both in-person and virtual attendees. Ohio, Minnesota, Rhode Island, Wisconsin,

Draft Pending Adoption

and Athene all contributed to the morning presentations. The second part of the training consisted of a practical, hands-on component to help regulator attorneys and investigators advance their deposition and interview skills. The afternoon training session was limited to 36 in-person attendees. Participants were provided with a detailed annuity case file to review prior to the deposition training.

Commissioner Ommen said participants had the opportunity to apply what they had learned in the morning and afternoon sessions by taking mock depositions of both an insurance producer witness and a consumer witness. The witness roles were played by six investigators from the Iowa Insurance Division. The participants were broken up into six groups of six, with two faculty members per group. Participants received immediate, constructive feedback from faculty members. The faculty was made up of insurance regulators with litigation experience. There were 12 faculty members from the states of California, Iowa, Minnesota, Missouri, New Mexico, North Carolina, Rhode Island, and Wisconsin.

Many of the afternoon participants and faculty members indicated that they are eager to participate in a deposition training next year. Participants also recommended having separate training sessions for attorneys and non-attorneys. The feedback received from both participants and faculty following the training suggests it makes sense to offer the annuity suitability best interest training on an annual basis.

Commissioner Ommen made a motion, seconded by Director Fox, to adopt the report of the Annuity Suitability (A) Working Group, including its Nov. 5 (Attachment Two) and Oct. 7 (Attachment Three) minutes, as well as the final *Annuity Best Interest Regulatory Guidance and Considerations* document (Attachment Four). The motion passed unanimously.

3. Adopted the Report of Life Actuarial (A) Task Force

Hemphill said the Life Actuarial (A) Task Force met Dec. 7–8. Hemphill provided an update on the Generator of Economic Scenarios (GOES). Hemphill said the Task Force adopted the model governance framework for the GOES, reflecting friendly amendments from industry received on the latest exposure. Hemphill noted that the GOES, like the *Valuation Manual*, is a living document, which means that as any new best practices emerge, the Task Force will regularly review whether the governance framework can be enhanced. Given the importance of the GOES, the Task Force is committed to maintaining and following a robust model governance framework.

Hemphill said the Task Force exposed an amendment that would establish a group annuity mortality data collection, similar to the current life mortality data collection. Hemphill reminded the Committee that the mortality data collection process allows the NAIC, typically working with the Society of Actuaries (SOA), to develop appropriate industry tables.

Hemphill said the Task Force exposed two amendments that would make the principle-based reserving (PBR) reinvestment guardrails less constraining: one proposal would allow an additional liquidity spread specific to assets supporting pension risk transfer business, and a separate proposal would update and harmonize the reinvestment guardrail across PBR frameworks in *Valuation Manual* (VM)-20, Requirements for Principle-Based Reserves for Life Products, VM-21, Requirements for Principle-Based Reserves for Variable Annuities, and VM-22, Requirements for Principle-Based Reserves for Non-Variable Annuities.

Hemphill reported that the Task Force discussed presentations on the potential retrospective application of VM-22 from individual companies that had been heard during the VM-22 (A) Subgroup's regulator-to-regulator meetings. Based on the various preferences, motivations, and challenges expressed during those presentations, the Task Force agreed to proceed by exposing, at the VM-22 (A) Subgroup level, a list of several potential paths forward for in-force application. The Task Force generally agreed with eliminating the following two extreme options: 1) requiring all companies to follow in-force application; and 2) not allowing any companies to follow in-

Draft Pending Adoption

force application. Instead, the potential paths being considered differ based on: 1) the granularity with which companies should be allowed to choose to elect or not elect to follow VM-22 for different blocks of in-force business; and 2) what support companies should provide for this election. This item is still in preliminary discussions, at the conceptual stage. Further robust discussion at the Subgroup and Task Force levels is expected.

Regarding other VM-22 “Day 2” questions, Hemphill stated that, for aggregation, the Task Force expressed support for allowing companies to reflect the benefit of the diversification of risks across products when determining non-variable annuity PBR. The Task Force agreed to proceed by exposing, at the VM-22 (A) Subgroup level, language allowing the benefit of aggregation to be reflected.

Hemphill said the Task Force also exposed an amendment that would allow companies to reflect the aggregation benefit from the diversification of risks across products when determining the VM-20 stochastic reserve.

Commissioner Zimmerman made a motion, seconded by Commissioner Mulready, to adopt the report of the Life Actuarial (A) Task Force. The motion passed unanimously.

4. Heard a Presentation on GOES

Scott O’Neal (NAIC), Yanacheak, and Daniel Finn (Conning) gave a presentation on GOES. O’Neal explained that economic scenarios are used by state insurance regulators to assess risks to insurers in potential future economic environments. A good set of scenarios captures the range of future economic environments; however, an economic scenario generator is not meant to be predictive in and of itself. Given that the future is unknown, testing many scenarios provides insight into insurer solvency positions and provides assurance that insurers will be able to pay claims in the future, regardless of what economic environment occurs. O’Neal explained that economic scenarios covering treasury scenarios, equity fund scenarios, and bond fund scenarios are used in risk-based capital (RBC) frameworks for life insurance, variable annuity (VA), and non-variable annuity products. GOES is a comprehensive solution promoting life insurer solvency across companies with diverse product portfolios and investment strategies.

Yanacheak discussed some of the drivers of GOES reform. He stated that in 2016, there was significant reform of VA reserving in capital standards. During that project, a consultant recommended changes to the prescribed economic scenario generator. Changes were outside the scope of the project at the time, but they explained the need for reform to regulators. In 2017, the American Academy of Actuaries (Academy), which maintained the previous economic scenario generator, notified the Life Actuarial (A) Task Force that it did not have the resources to maintain the prescribed economic scenario generator, except in its current form, until a suitable replacement could be found. In 2019, the Financial Stability (E) Task Force noted a potential deficiency in the prescribed economic scenario generator related to a limited reflection of long periods of low (or negative) interest rates. That was a weakness that needed to be addressed, and the GOES project was officially started in 2019, with regulators deciding that a request for proposal should be issued in 2020.

O’Neal shared some quotes from stories in the Wall Street Journal highlighting how different economic environments can impact insurers. O’Neal highlighted the following quote: “[f]ew industries have as much interest rate risk as life insurers, which invest premiums largely in bonds,” and another that stated “[b]ut rising rates can pose problems for life insurers. As rates start to rise, a customer’s return on a fixed annuity product is relatively unattractive.”

O’Neal shared a fixed deferred annuity example showing that the currently prescribed economic scenario generator failed to capture the rising interest rate environment that began in 2022. The interest rates rose, consumers surrendered annuities for higher yields in new products, and excess surrenders forced companies to sell assets at a loss. This type of extremely fast-rising interest rate can pose a challenge to insurers and, from a

Draft Pending Adoption

technical perspective, can be challenging for economic scenario generators to model. Yanacheak stated that for fixed annuity carriers, the existing economic scenario sets were not robust enough to account for the rise in interest rates experienced in the last five years. GOES has been calibrated to at least match this type of rise and is able to produce scenarios that rise quickly.

O’Neal discussed universal life with secondary guarantee (ULSG) and some of its risks. One of the primary drivers of GOES is related to a concern with a lack of “low for long” scenarios in the current prescribed economic scenario generator. When interest rates go low and stay low, companies lower crediting rates to minimum guarantees and account values deplete, but policies stay in force due to no-lapse guarantees. GOES is able to produce rates as low as those experienced during COVID, while the current prescribed economic scenario generator was not able to handle that environment.

O’Neal moved from talking about the effect of interest rates to the effect of equity market performance. In the VA example, he explained that in periods of steep decline, equity markets across the globe tend to move together. O’Neal said the stock market crashes, account values drop and claim payments could lead to solvency concerns. Yanacheak said that GOES is able to model this situation better than the current economic scenario generator.

Finn talked about some of the key project deliverables of GOES and how it works for insurance companies. He stated that Conning will generate economic scenarios monthly for the industry to access on a public GOES scenario website covering nearly any need companies might have. The data set includes ten thousand scenarios by one-hundred years and includes U.S. Treasury, bond fund, and equity fund data. Conning and the NAIC also produce scenario summary statistics and a number of key comparisons. Companies can look at a wide range of distributional information and see a much broader investment universe than is in the existing generator. Finn demonstrated some of the functionality of the website and a statistical report that informs users how scenarios are changing. There is also a section on documentation that the NAIC and Conning will be continually updating that covers key components like interest rates, equities, corporate bonds, and the governance process. There are simulations of the stochastic exclusion ratio test (SERT) scenarios and a questions and answers (Q&A) document that will also be updated. He said it includes a great deal of information available to insurers and regulators. One example is an explanation of how the model was calibrated, given new considerations like the “low for long” interest rates, while retaining variability. He said the site is getting traffic, and insurers are starting to download files, test them, and look at the wide range of additional files that have been developed to help companies understand the scenarios.

O’Neal emphasized that the statistics that Conning and the NAIC are generating on a monthly basis will empower company actuaries to explain their results to their management and domestic regulators. None of this information was produced with the previous generator, so this is an added value of the GOES. O’Neal said that the Life Actuarial (A) Task Force adopted the GOES Model Governance Framework. The model governance framework addresses: 1) the purpose and scope of the document; 2) how the model will be reviewed and updated; 3) a process for handling any issues that arise; and 4) standards for documentation.

Yanacheak explained the roles and responsibilities of the GOES (E/A) Subgroup, which he chairs. He said the Subgroup’s work is supported by committee support and Conning and takes its responsibility to the GOES project and interested parties who rely on it seriously. He explained that because the GOES is used for calculating reserves, the Subgroup reports to the Committee and Life Actuarial (A) Task Force, as well as to the Life Risk-Based Capital (E) Working Group and the Financial Condition (E) Committee, because GOES is also used in RBC calculations and capital. Future items to consider will be updates to annual statement instructions and *Valuation Manual* updates as part of the overall model governance. Additionally, the Subgroup remains committed to reviewing comments it received on the framework and continuing to engage with industry on their experiences and best practices to make improvements to the model governance framework going forward.

Draft Pending Adoption

O’Neal shared information about next steps in the GOES process. Currently, scenarios are being released on a monthly basis with a goal of identifying and resolving any kinks prior to Jan. 1, 2026, when the scenarios are prescribed for calculations of PBR under the *Valuation Manual*. Some issues were identified, and improvements were made to the production scenarios processes. The NAIC and Conning look forward to making any additional necessary improvements heading into 2026. Regarding RBC, changes to the RBC blanks and instructions are needed to effectuate GOES for RBC year-end 2026. Comments on recent exposures of the RBC blank and instructions changes will be discussed in early 2026.

5. Heard an Update on the SOA and CIPR Project on the Use of Criminal History in Life Insurance Underwriting

Kelly Edmiston (CIPR) updated the Committee on the status of the research project being undertaken by the SOA and Center for Insurance Policy and Research (CIPR). The lead researcher on the project is David Shraub, an independent actuary contracted by the Society of Actuaries who is jointly funded by the SOA and CIPR. Edmiston said he is representing the CIPR and, as a researcher, is fully involved in all aspects of the project.

Edmiston explained that he and Schraub report all plans and findings to a project oversight group (POG). He said that several state regulators are members of the POG. The POG has true oversight in the sense that it must approve all work. The POG has been providing helpful feedback and suggestions. There is also a less formal ad hoc advisory group that provides useful feedback but has no authority.

Edmiston provided a high-level overview of the research approach and some of the more salient findings and obstacles. Edmiston focused on some of the findings from the research review, which is roughly complete. Edmiston said that he spoke with criminologists and reviewed the research literature. The research makes clear that there is an elevated risk of mortality after release from prison. For example, an article in the New England Journal of Medicine, which looked at convicts released from Washington State Prison over the year following their release, found a mortality rate 3.5 times that of the general population (a mortality rate is the number of deaths, usually expressed per 1,000, 10,000, etc. over a time period, usually a year, compared to another population, which is usually the general population). Perhaps most interesting for life insurers is that most of the increased deaths occurred within two weeks of release, largely due to homicide, suicide, drug overdose, and cardiovascular disease. In the first two weeks after release, the mortality rate of the convicts was 13 times that of the general population.

Edmiston said there are studies that see effects further out, but they usually look at a relatively small time frame, often a year. Only one longitudinal study, from Sweden, has been located. Edmiston also noted that, according to the research, individuals on probation, which encompasses a larger period post-release, have a mortality rate about three times the mortality rate of those still in state prison. One aspect that is not yet clear is the marginal effect of incarceration on health status indicators that are collected at the same time.

Edmiston explained that the rest of the study is largely built on industry interviews and surveys. The primary objective of the study is how criminal history is used in underwriting, and the only way to achieve that is to ask. Edmiston shared that the surveys have been less successful than the research review. The surveys are being sent out in three phases. The first phase was talking to data providers. Nine data providers were contacted, and two agreed to correspond, although they were not forthcoming with information. Edmiston said they did provide some information, which will be incorporated into a more formal presentation in the future.

Edmiston said the second phase was to query reinsurers of the five largest life insurers. That inquiry is ongoing. The two reinsurers contacted have been more willing to talk. Edmiston said they are not at a point where they can share any findings, but the early indications are that criminal history is relevant, although not a priority. He said that there does not seem to be a consistent approach, and the importance of criminal history may be more of a subjective matter for an underwriter in relation to the entire picture of a particular applicant.

Draft Pending Adoption

Edmiston said the last phase is to query life insurers about how they are using criminal history in their underwriting process. Given the lackluster responses to inquiries in the first two phases and the lack of an incentive to respond to inquiries, Edmiston said he has been considering how to encourage responses in the next phase of the project. Edmiston said that consumer advocates have expressed a lot of interest in this issue and shared their perspectives. Edmiston said he hopes that life insurers will want the opportunity to explain how they use the information and ensure that there is an accurate understanding of their perspective. Edmiston explained that the lack of participation has been the most significant obstacle to the success of the study. Edmiston said he has been trying to think of ways to encourage participation, especially in this last phase of the study when they are sending surveys to life insurers. Edmiston said he has drafted a letter that he hopes some Commissioners will consider sending to life insurers in their state, encouraging them to participate.

Commissioner Fowler said that he and Commissioner Michael Humphreys (PA), as co-chairs of the former Special Committee on Race and Insurance Life Workstream, supported gathering information about how criminal history is used in life insurance underwriting. Commissioner Fowler reiterated that there is not much information about this issue, but it is important for us to understand. He said that he supports the concept of sending a letter to life insurers in his state, letting them know about this project. He said they will be receiving a survey that should not be too onerous to respond to. He said he thinks the survey is important and hopes that, while not required, life insurers will choose to respond.

Commissioner Fowler said he would like to take a look at the letter that Edmiston has drafted. He asked that any Committee member who is open to sending a letter let Jennifer Cook (NAIC) or Edmiston know. Director French suggested that Edmiston work with Commissioner Fowler to reach out to commissioners about sending a letter.

Brendan Bridgeland (Center for Insurance Research) and Peter Kochenberger (NAIC Consumer Representative) expressed support for the research study, but said that the results so far echo concerns expressed a year ago regarding the need for information. Kochenberger said the difficulty of getting information from non-regulators, combined with the voluntary nature of participation, means that the survey results are not going to cover most of the regulatory issues that insurance departments are concerned about and responsible for. Kochenberger said the survey that was drafted by the former Special Committee on Race and Insurance Life Workstream, or a similar survey, will get to the underwriting information being sought in the SOA/CIPR project as well as additional important information, given that criminal history records, especially at the local level, are notoriously unreliable, and marking someone with a criminal history has serious consequences. Kochenberger said he hoped that the status report would give regulators the incentive to get the basic information. Bridgeland said this information is important because technology is advancing, and regulators need to be more proactive rather than reactive because criminal history is being used by insurers now, and it is affecting consumers. He said it is easier to do an analysis to figure out what is going on than it is to clean things up afterwards through market conduct or other means.

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

SharePoint/NAIC Support Staff Hub/Committees/A Committee/2025 Fall National Meeting/A_Cmte_FNMeetingmin.docx

Draft: 12/2/25

Life Insurance and Annuities (A) Committee
Virtual Meeting
November 21, 2025

The Life Insurance and Annuities (A) Committee met Nov. 21, 2025. The following Committee members participated: Judith L. French, Chair (OH); Doug Ommen, Co-Vice Chair (IA); Carter Lawrence, Co-Vice Chair (TN); Mark Fowler (AL); Anita G. Fox (MI); Eric Dunning (NE); Justin Zimmerman (NJ); Kaitlin Asrow represented by William B. Carmello (NY); Glen Mulready represented by Andy Schallhorn (OK); Elizabeth Kelleher Dwyer represented by Matthew Gendron (RI); Cassie Brown represented by Rachel Hemphill (TX); Scott A. White (VA); and Nathan Houdek (WI).

1. Adopted its Summer National Meeting Minutes

Commissioner White made a motion, seconded by Commissioner Lawrence, to adopt the Committee's Aug. 12 minutes (see *NAIC Proceedings – Summer 2025, Life Insurance and Annuities (A) Committee*). The motion passed, with Carmello abstaining.

2. Adopted its 2025 Proposed Charges

Director French summarized the changes to the Committee's 2025 charges. The Committee proposes for 2026 the creation of two working groups and charges. There will be a new Annuity Buyer's Guide (A) Working Group charged to: "Review and revise the NAIC Buyer's Guides for Deferred Annuities in light of changes in the marketplace." Director French explained that the buyer's guides were last revised in 2013. A lot has changed in the marketplace since then, which is not reflected in the current buyer's guides.

Director French said that the proposed 2026 charges create a new Life Insurance and Annuities Illustrations (A) Working Group charged to: "Evaluate concepts for improving life insurance and annuity illustrations and disclosures, and consider revisions to relevant NAIC models or develop other guidance where feasible and appropriate." Director French explained that there has been a Life and Annuity Illustration (A) Subgroup under the Life Actuarial (A) Task Force focusing on actuarial issues with illustrations. The Task Force recently adopted revisions to *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies With Index-Based Interest Sold on or After December 14, 2020* (AG 49-A) to limit the disclosure of hypothetical index returns in years prior to an index's existence. Those revisions are on the Committee's agenda for adoption today. Director French said it makes sense to transition additional work on life insurance and annuity illustrations to a working group under the Committee. This new Life Insurance and Annuities Illustrations (A) Working Group will be able to focus on addressing concerns with illustrations that extend beyond the actuarial. The Working Group will continue to have actuarial participation. Ben Slutsker (MN) served as co-chair of the Life and Annuity Illustration (A) Subgroup under the Life Actuarial (A) Task Force and has agreed to lend his expertise as chair of this new Working Group. The Working Group contemplates membership, including membership from both the Life Actuarial (A) Task Force and the Life Insurance and Annuities (A) Committee.

Birny Birnbaum (Center for Economic Justice—CEJ) asked whether there was a reason for the creation of the new Working Group after having asked the Committee to take on such a charge several times over the years without success. Director French explained that the Life Actuarial (A) Task Force has had a charge and has been working on illustration issues. Now that the Subgroup under the Task Force has achieved its more actuarially focused work with the adoption of revisions to AG 49-A, it seems appropriate to bring these issues to the Committee to continue examining illustration issues more broadly.

Commissioner Houdek made a motion, seconded by Commissioner Ommen, to adopt the Committee's 2026 proposed charges (see *NAIC Proceedings – Fall 2025, Executive (EX) Committee and Plenary, Attachment Two*). The motion passed, with Carmello abstaining.

3. Adopted the 2026 Proposed Charges of the Life Actuarial (A) Task Force

Hemphill said the Life Actuarial (A) Task Force's 2026 proposed charges were adopted on Oct. 23 and reflect two substantive updates from its 2025 charges: 1) the Life and Annuity Illustration (A) Subgroup and its charge have been removed. This change coordinates with the new charge under the Committee creating a new Life Insurance and Annuities Illustrations (A) Working Group; and 2) the charges for the Valuation Manual (VM)-22 (A) Subgroup have been updated to transition from the development of VM-22 to ongoing maintenance of the principle-based reserving framework for non-variable annuities.

Hemphill made a motion, seconded by Commissioner Lawrence, to adopt the Life Actuarial (A) Task Force's 2026 proposed charges (see *NAIC Proceedings – Fall 2025, Executive (EX) Committee and Plenary, Attachment Two*). The motion passed, with Carmello abstaining.

4. Adopted the 2026 GRET

Hemphill explained that the Society of Actuaries (SOA) provided the Life Actuarial (A) Task Force with the annual update to the Generally Recognized Expense Table (GRET). She said no concerns were raised with the SOA updates, and the Task Force unanimously adopted the updated 2026 GRET on Oct. 2.

Hemphill made a motion, seconded by Director Dunning, to adopt the 2026 GRET (see *NAIC Proceedings – Fall 2025, Executive (EX) Committee and Plenary, Attachment Three*). The motion passed, with Carmello abstaining.

5. Adopted Revisions to AG 49-A

The Life Actuarial (A) Task Force adopted targeted revisions to the additional disclosures section of 49-A. These targeted revisions addressed an issue identified by an informal group of state insurance regulators, where multiple historical averages were being shown in tables side-by-side with the maximum illustrated rate. These "historical averages" were sometimes based on back-casted or simulated historical performance despite indices having only been recently created. The updates require the disclosure of 25 years of actual historical data.

Hemphill said there were multiple exposures of the draft revisions, each time reflecting clarifying comments from interested parties that were generally considered to be "friendly amendments." The Task Force adopted the edits to AG 49-A on Nov. 13.

Commissioner Ommen made a motion, seconded by Director Fox, to adopt the revisions to AG 49-A (see *NAIC Proceedings – Fall 2025, Executive (EX) Committee and Plenary, Attachment Four*). The motion passed, with Carmello abstaining.

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

Draft: 11/10/25

Annuity Suitability (A) Working Group
Virtual Meeting
November 5, 2025

The Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee met Nov. 5, 2025. The following Working Group members participated: Doug Ommen, Chair (IA); Lauren Van Buren, Vice Chair (WI); Yada Horace (AL); Jodi Lerner (CA); Ann Lockett-Stephens (DE); Craig Van Aalst (KS); Danielle Torres (MI); and Matthew Gendron (RI).

1. Adopted the Safe Harbor Guidance Document

Commissioner Ommen said the purpose of this meeting was for the Working Group to consider adoption of the draft *Annuity Best Interest Regulatory Guidance and Considerations* document, which provides guidance on the safe harbor/comparable standards provision in the revised *Suitability in Annuity Transactions Model Regulation* (#275). The revised Model #275 added a best interest standard of conduct for insurers and producers. He said the Working Group received comments from the Joint Trades—in a joint comment submission from the Insured Retirement Institute (IRI), the American Council of Life Insurers (ACLI), Finseca, the National Association of Insurance and Financial Advisers (NAIFA), the Committee of Annuity Insurers (CAI), the Financial Services Institute (FSI), the Indexed Annuity Leadership Council (IALC), and the National Association for Fixed Annuities (NAFA). Commissioner Ommen said the Joint Trades' comment letter expressed support for this version of the draft guidance document.

Commissioner Ommen asked if there were any additional comments on the draft. There were no additional comments.

Van Buren made a motion, seconded by Van Aalst, to adopt the Annuity Best Interest Regulatory Guidance and Considerations document (see *NAIC Proceedings – Summer 2025, Life Insurance and Annuities (A) Committee, Attachment Four*). The motion passed unanimously.

Having no further business, the Annuity Suitability (A) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/A Cmte/Annuity Suitability WG/ASWG 11-5-25min.docx

Draft: 11/6/25

Annuity Suitability (A) Working Group
Virtual Meeting
October 7, 2025

The Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee met Oct. 7, 2025. The following Working Group members participated: Doug Ommen, Chair, and Johanna Nagel (IA); Lauren Van Buren, Vice Chair (WI); Jessica R. Luff (DE); Craig Van Aalst (KS); Danielle Torres (MI); Maggie Reinert (NE); Keith E. Nyhan (NH); and Matthew Gendron (RI).

1. Discussed the Safe Harbor Guidance Document

Commissioner Ommen said the purpose of this meeting was for the Working Group to discuss the comments received by the Sept. 22 public comment deadline on the draft Annuity Best Interest Regulatory Guidance and Considerations (Attachment Three-A), the safe harbor/comparable standards provision in the revised *Suitability in Annuity Transactions Model Regulation* (#275), which added a best interest standard of conduct for insurers and producers. He said the Working Group received a joint comment letter from the Insured Retirement Institute (IRI), the American Council of Life Insurers (ACLI), the National Association of Insurance and Financial Advisers (NAIFA), the Committee of Annuity Insurers (CAI), the Financial Services Institute (FSI), the Indexed Annuity Leadership Council (IALC), the National Association for Fixed Annuities (NAFA), Finseca, and the Federation of Americans for Consumer Choice (FACC). Collectively, these organizations are referred to as the Joint Trades.

Sara Wood (IRI) acknowledged the Working Group's hard work in developing the revised draft guidance document. She explained that the Joint Trades' comment letter reflects their general support for the revised draft guidance document, which they believe will be helpful for the companies utilizing the safe harbor provision and the supervision requirements related to it. Wood said that included in the Joint Trades' comment is letter a redline of the guidance document with suggested revisions they believe would clarify insurer obligations in alignment with Model #275's provisions and improve the guidance document's readability.

Kim O'Brien (FACC) said that, as stated in its comment letter, the FACC believes the draft guidance document has been improved to mitigate any suggestion that insurers must confirm that comparable standards used by distribution firms are equivalent to standards in Model #275 for business not covered by the safe harbor. She said that, as the FACC previously stated, nothing in Model #275 calls for such duplicative review. She said the 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 industry's responsibility to comply faithfully with applicable comparable standards.

Commissioner Ommen said he would like to use the remainder of the meeting to discuss potential revisions to the draft guidance document based on the comments received. The Working Group walked through a chair draft document that reflects the small drafting group's review and incorporation of some of the suggested revisions provided in the comments received (Attachment Three-B).

In the reporting provision under the "Requirements of the Safe Harbor" section, the Working Group discussed and accepted an additional suggested revision to add "for the supervising entity" for clarity. Under the "Insurers' 6(C)(1) Obligation" section, Nyhan suggested adding "recommended by a producer relying on" to the last section for clarity. The Working Group agreed to include his suggested language. The Working Group next discussed whether it should say "should" or "shall" in the certifications provision under the "Monitoring Relevant Conduct" section. After discussion, it was determined that the original language did not include "should" or "shall," but the

drafting group decided to add the word “should” with respect to an insurer’s obligation to obtain certifications of compliance from entities for purposes of the insurer’s Section 6(C)(1) supervisory obligations. After additional discussion, the Working Group decided to retain the word “should” to reflect that the purpose of the document is to provide guidance; it is not a regulation or a statute. At the conclusion of its review, there was no objection to using the chair draft document as a basis for the next draft of the guidance document.

The Working Group next discussed the comments offered by the Joint Trades in their comment letter, which the small drafting group did not accept. After discussion, the Working Group decided not to make any additional revisions to the chair draft document based on the Joint Trades’ comments, which the small drafting group decided not to include.

Commissioner Ommen said that following this meeting, the Working Group plans to distribute a revised draft guidance document for a public comment period.

2. Heard a Summary of the Insurance Summit Annuity Best Interest Training Sessions

Nagel provided a summary of the annuity best interest training sessions that occurred during the Insurance Summit. She said the Iowa Insurance Division led the effort of several state insurance regulators to develop and provide training on the best interest standard in Model #275.

Nagel said the training had two main parts. The first part consisted of three one-hour morning classroom sessions focusing on increasing participant understanding of annuities generally and the best interest standard. She said these sessions were open to both in-person and virtual attendees. Nagel said the second part of the training consisted of a practical, hands-on component to help state insurance department (DOI) attorneys and investigators advance their deposition and interview skills. She said the afternoon training session was limited to in-person attendees, and participation was capped at 36 attendees. She said participants were provided with an annuity case file to review prior to the training.

Nagel then described how the training was conducted. She said participants were given the opportunity to apply what they had learned in a one-hour presentation provided before the hands-on training began by taking mock depositions of both an insurance producer and a consumer witness. She said the witness roles were played by six investigators from the Iowa Insurance Division. Nagel said participants received immediate, constructive feedback from state DOI faculty, which was composed of state DOI regulators experienced in litigation. She said the Iowa Insurance Division was able to assemble 12 faculty members from California, Iowa, Minnesota, Missouri, New Mexico, North Carolina, Rhode Island, and Wisconsin. She thanked everyone who helped to make the training possible.

Having no further business, the Annuity Suitability (A) Working Group adjourned.

Draft: 8/7/25

Comments are being requested on this draft on or before Sept. 22, 2025. Comments should be sent by email only to Jolie Matthews at jmatthews@naic.org.

ANNUITY BEST INTEREST REGULATORY GUIDANCE AND CONSIDERATIONS

SUMMARY

In Spring 2020, the National Association of Insurance Commissioners adopted the *Suitability in Annuity Transactions Model Regulation*, Model 275-1 (“the Model Regulation”). The Model Regulation requires producers to act in the best interest of the consumer when recommending annuities and obligates insurers to establish supervisory systems that ensure recommendations address the consumer’s insurance needs and financial objectives at the time of the transaction.

To account for existing standards applicable to producers also acting as registered representatives, investment adviser representatives, or plan fiduciaries, the Model Regulation includes a safe harbor provision.¹ This provision allows insurance producers to satisfy the Model Regulation’s requirements if they comply with business rules and supervisory systems developed under the comparable standard, even if the comparable standard does not directly apply to the annuity product or recommendation.

Central to the purpose of the Model Regulation are the insurers’ supervisory duties. This guidance clarifies supervisory obligations for insurers that issue annuities sold under the safe harbor.

REQUIREMENTS OF THE SAFE HARBOR

To rely on the safe harbor provision, insurers must meet the following requirements:

1. **Verification:** Insurers must determine that the safe harbor conditions are satisfied.
2. **Monitoring:** Insurers must monitor financial professionals’ conduct using information gathered in the normal course of business.²
3. **Reporting:** Insurers must provide supervising entities (e.g., broker-dealers) with sufficient data to maintain effective oversight systems.³

¹ Section 6(E)(1). The prohibited practices in Section 6(D) still apply in safe harbor transactions.

² A financial professional is a producer that is regulated and acting as

- (a) A broker-dealer registered under federal [or state] securities laws or a registered representative of a broker-dealer;
- (b) An investment adviser registered under federal [or state] securities laws or an investment adviser representative associated with the federal [or state] registered investment adviser; or
- (c) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto. *See* Section 6(E)(3).

³ *See* Section 6(E)(3)(a).

DISCUSSION

The safe harbor applies when insurance producers recommending annuities operate under comparable supervisory standards, such as those required by the SEC's Regulation Best Interest (Reg BI) and applicable FINRA rules (2330, 3110, 3120, and 3130).⁴

The safe harbor may be applied if the annuity is a federally registered security and the recommendation is subject to Reg BI and FINRA regulations. However, under appropriate circumstances, the safe harbor may also be applied to fixed annuities (unregistered fixed and fixed indexed annuities). While Reg BI does not directly apply to fixed annuities, the safe harbor ensures insurance producers supervised under securities regulations can use those supervisory control systems if the business rules, controls, and procedures contemplate fixed annuities. Insurers, however, must ensure that policies of the supervising entities also address the unique features of annuity contracts, including their long-term guarantees and surrender charges.

INSURERS' 6(C)(1) OBLIGATION

Even under the safe harbor, insurers must comply with Section 6(C)(1) and have a reasonable basis to believe an annuity meets a consumer's financial and insurance needs. This is required whether that annuity is a federally registered security or a fixed annuity. An insurer may contract for performance of this supervisory function pursuant to Section 6(C)(3)(a) so long as it monitors the conduct of the supervising entity, including by conducting audits, as appropriate. An insurer that issues an annuity pursuant to the safe harbor and that contractually assigns the 6(C)(1) obligation has to “[m]onitor the relevant conduct of the financial professional” pursuant to the safe harbor and has to monitor “and, as appropriate, conduct [...] audits to assure the contracted function is properly performed.” The insurer's monitoring program must be constructed with these two similar but distinct monitoring obligations in mind.

SAFE HARBOR USE CASES

The safe harbor may be used in the following situations:

- A licensed insurance producer is also registered as a registered representative and is subject to the supervisory control system of a registered securities broker-dealer.
- A licensed insurance producer who is also an investment adviser representative is subject to a comparable standard.
- A licensed insurance producer, subject to a comparable standard, may make recommendations of annuities not registered with the SEC, such as fixed annuities or fixed indexed annuities.

An insurer's obligation to ascertain the adequacy of the supervising entity's procedures, discussed further below, does not require the insurer to dictate specific policies to the supervising entity.

MONITORING RELEVANT CONDUCT

⁴ <https://www.finra.org/finramanual/rules/r3110>; <https://www.finra.org/finramanual/rules/r3120>; <https://www.finra.org/finramanual/rules/r3130>; <https://www.finra.org/rules-guidance/rulebooks/finra-rules/2330>

To meet safe harbor requirements, insurers must monitor the insurance producer or their supervising entity. An effective monitoring program involves the insurer taking active steps to assure itself that the supervising entity is complying with its obligations. Simply awaiting complaints or regulatory actions after regulatory exams are passive approaches that are inadequate in and of themselves.⁵ Effective monitoring can include the following:

- **The Contract** – Where the supervising entity is handling the compliance obligations for the insurer, a written contract reduces misunderstanding between the parties as to who is doing the supervising. Contractual provisions may also be used to convey the insurer's expectations.
- **Onboarding** – When an insurer onboards a supervising entity, it should review policies and procedures to ensure the compliance arrangement will satisfy the safe harbor through an adequate supervisory system. An insurer should also review regulatory actions against the supervising entity. For companies that sell both registered and unregistered annuities, one aspect of this inquiry may be to understand if the policies that the broker-dealer or entity developed for the sale of registered annuities also apply to the sale of unregistered annuities (with modest modifications for the product differences). If they do, this is useful evidence on which the insurer may rely.
- **Ongoing monitoring** – To ensure the supervising entity is complying with its obligations, insurers should employ ongoing monitoring, which may include:
 1. Due diligence questionnaires: these questionnaires may be stand-alone safe harbor questionnaires or wrapped into a larger vendor process that could include cybersecurity, state specific requirements, and other topics.
 2. Periodic engagement: the insurer should periodically engage with the supervising entity's compliance and/or legal team.
 3. Data analytics: categorize sales data to analyze it from a risk perspective. The categorized data could be sorted by number of contracts and by premiums to get a risk-informed review of producers and broker-dealers or entities for key elements such as sales to older consumers, free-look cancellations, early surrenders, replacements, and others. Reviewing this data may inform the audit program, as discussed below, or may otherwise inform the nature of the due diligence an insurer conducts.
 4. Audits: a strong audit program includes selecting an adequate sample size on a frequent basis and escalation procedures for any broker-dealer or entity that fails to respond, up to and including termination of the relationship. Selection of audit frequency should be risk-based, based on the volume that comes through the channel as well as other risk factors available to the insurer. Generally, an insurer should audit a supervising entity with regular frequency. The audit frequency and depth will depend on the strength of the other elements of the monitoring

⁵ The receipt of a complaint or a supervising entity receiving a regulatory inquiry or action resulting from an exam are risk indicators that require follow-up. Moreover, relying on the lack of regulatory action is insufficient for several reasons, including that an insurer has no way of knowing the status of any regulatory exam and whether that exam focused on annuity sales.

program. Post-audit, the insurer should ensure the supervising entity corrects and identifies the root cause of any identified problem.

5. Registered Annuities: A regulatory exam that focuses on the supervising entity's annuity sales is strong evidence on which an insurer can rely as part of its monitoring program.
- **Certifications** – Certifications of compliance from the supervising entity are required annually where the partner has assumed the contractual performance of the insurer's 6(C)(1) obligation.⁶ Insurers also require certifications to cover the entity's compliance with a comparable standard since certifications serve other purposes for insurers. A meaningful certification is detailed and active.

PROVIDING INFORMATION AND REPORTS

Insurers must provide supervising entities with sufficient data to make informed decisions. This may include reports on customer demographics, annuity features, and other relevant factors. Data sharing ensures both parties can oversee transactions effectively without duplicating efforts.

The Model Regulation is principles-based, allowing insurers flexibility to design compliance procedures suited to their business.

Information the insurer might share with the supervising entity includes the following:

- Total contracts issued through the producer over the period, including number and type of annuity;
- Amount of commissions paid for each sale to that producer over the period;
- Whether the insurer issued any other annuities for the same producer, and if so, how many;
- Number of internal replacements issued by the same producer;
- Number of contracts issued where the consumer was older than a certain age;
- Number of contracts issued with a death claim pending or complete;
- Number of consumer complaints or lawsuits received by the insurer related to the producer;
- Number of contracts for the producer that were surrendered less than 2 years from policy issue, between years 2-5, between years 6-10, and more than 10 years from issuance; or
- Whether any surrenders were subject to surrender charges.

CONCLUSION

Annuities are complex products that may not suit all consumers. Insurers are responsible for implementing effective supervisory systems, training contracted entities, and ensuring compliance with the Model Regulation's best interest requirements. By adhering to these principles, insurers can protect consumers while meeting their regulatory obligations. This guidance emphasizes the active monitoring that must occur for insurers to issue annuities pursuant to the safe harbor.

⁶ 6(C)(3)(b)(ii).

Working Group Chair's suggested revisions reflecting comments received.

ANNUITY BEST INTEREST REGULATORY GUIDANCE AND CONSIDERATIONS

SUMMARY

In Spring 2020, the National Association of Insurance Commissioners adopted the *Suitability in Annuity Transactions Model Regulation*, Model 275-1 ("the Model Regulation"). The Model Regulation requires producers to act in the best interest of the consumer when recommending annuities and obligates insurers to establish supervisory systems that ensure recommendations address the consumer's insurance needs and financial objectives at the time of the transaction.

To account for existing standards applicable to producers also acting as registered representatives, investment adviser representatives, or plan fiduciaries, the Model Regulation includes a safe harbor provision.¹ This provision allows insurance producers to satisfy the Model Regulation's requirements if they comply with business rules, controls, and procedures and supervisory systems developed under the~~that satisfy~~ a comparable standard, even if the comparable standard does not directly apply to the annuity product or recommendation.

Central to the purpose of the Model Regulation are the insurers' supervisory duties. The Model Regulation is principles-based, allowing insurers flexibility to design compliance procedures suited to their business. This guidance clarifies supervisory obligations for insurers that issue annuities sold under the safe harbor.

REQUIREMENTS OF THE SAFE HARBOR

To rely on the safe harbor provision, the financial professional must be subject to or apply a comparable standard (as defined in the Model Regulation), and insurers must also meet the following requirements:

1. **Verification:** ~~Insurers must determine that the safe harbor conditions are satisfied.~~
- 2.1. **Monitoring:** ~~Insurers must monitor the relevant conduct of the financial professionals' conduct (or entity responsible for supervising the financial professional) using information gathered in the normal course of an insurer's business.~~²
- 3.2. **Reporting:** Insurers must provide supervising entities (e.g., broker-dealers) with sufficient data to maintain effective oversight systems.³

¹ Section 6(E)(1). The prohibited practices in Section 6(D) still apply in safe harbor transactions.

² A financial professional is a producer that is regulated and acting as

- (a) A broker-dealer registered under federal [or state] securities laws or a registered representative of a broker-dealer;
- (b) An investment adviser registered under federal [or state] securities laws or an investment adviser representative associated with the federal [or state] registered investment adviser; or
- (c) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto. *See Section 6(E)(3).*

³ *See Section 6(E)(3)(a).*

As discussed further in Monitoring Relevant Conduct – Onboarding below, insurers should also reasonably verify that the safe harbor conditions are satisfied, which can be done when an insurer onboards a supervising entity.

DISCUSSION

The safe harbor applies when insurance producers recommending annuities operate under comparable ~~supervisory~~ standards, such as those required by the SEC's Regulation Best Interest (Reg BI) and applicable FINRA rules (2330, 3110, 3120, and 3130).⁴

The safe harbor may be applied if the annuity is a federally registered security and the recommendation is subject to Reg BI and FINRA ~~regulations~~ rules.⁵ However, under appropriate circumstances, the safe harbor may also be applied to fixed annuities (unregistered fixed and fixed indexed annuities). While Reg BI does not directly apply to fixed annuities, the safe harbor ensures insurance producers supervised under securities regulations can use those supervisory control systems if the ~~broker-dealer applies its Reg BI~~ business rules, controls, and procedures ~~contemplate~~ to fixed annuities. ~~Insurers, however, must ensure that policies of the supervising entities also address the unique features of annuity contracts, including their long-term guarantees and surrender charges.~~

INSURERS' 6(C)(1) OBLIGATION

Even under the safe harbor, insurers must comply with Section 6(C)(1) and have a reasonable basis to believe an annuity meets a consumer's financial and insurance needs. This is required whether that annuity is a federally registered security or a fixed annuity. An insurer may contract for performance of this supervisory function pursuant to Section 6(C)(3)(a) so long as it monitors the conduct of the supervising entity, including by conducting audits, as appropriate. An insurer that issues an annuity pursuant to the safe harbor and that contractually assigns the 6(C)(1) obligation has to

- 1) “[m]onitor the relevant conduct of . . . the entity responsible for supervising the financial professional,” pursuant to ~~the safe harbor~~ Section 6(E)(3) and ~~has to~~
- 2) monitor “and, as appropriate, conduct[...] audits to assure the contracted function is properly performed.” pursuant to Section 6(C)(3)(b).

The insurer's monitoring program must be constructed with these two similar but distinct monitoring obligations in mind.

SAFE HARBOR USE CASES

The safe harbor may be used in the following situations:

- A licensed insurance producer is also registered as a registered representative and is subject to the supervisory control system of a registered securities broker-dealer.
- A licensed insurance producer who is also an investment adviser representative is subject to a comparable standard.

⁴ <https://www.finra.org/finramanual/rules/r3110>; <https://www.finra.org/finramanual/rules/r3120>; <https://www.finra.org/finramanual/rules/r3130>; <https://www.finra.org/rules-guidance/rulebooks/finra-rules/2330>

⁵ While most of the examples and information included address a broker-dealer distribution model, a similar analytical framework, with the appropriate flexibility, would apply to an insurance carrier's obligations when entering into a distribution model with investment advisers and plan fiduciaries.

- A licensed insurance producer, subject to a comparable standard, may make recommendations of annuities not registered with the SEC, such as fixed annuities or fixed indexed annuities.

An insurer's obligation to ascertain the adequacy of the supervising entity's procedures, discussed further below, does not require the insurer to dictate specific policies to the supervising entity.

MONITORING RELEVANT CONDUCT

To meet safe harbor requirements, insurers must monitor the insurance producer or their supervising entity. An effective monitoring program involves the insurer taking active steps to assure itself that the supervising entity is complying with its obligations. Simply awaiting complaints or regulatory actions after regulatory exams are passive approaches that are inadequate in and of themselves.⁶ Effective monitoring can include the following:

- **The Contract** – Where the supervising entity is handling the compliance obligations for the insurer, a written contract reduces misunderstanding between the parties as to who is doing the supervising. Contractual provisions may also be used to convey the insurer's expectations and require the supervising entity to perform contracted responsibilities.
- **Onboarding** – When an insurer onboards a supervising entity, it should review policies and procedures to ensure the compliance arrangement will satisfy the safe harbor through an adequate supervisory system. Insurers should review the policies of the supervising entities to see how they address the unique features of annuity contracts, including their long-term guarantees and surrender charges. An insurer should also review regulatory actions against the supervising entity. For companies that sell both registered and unregistered annuities, one aspect of this inquiry may be to understand if the policies that the broker-dealer or entity developed for the sale of registered annuities also apply to the sale of unregistered annuities (with modest modifications for the product differences). If they do, this is useful evidence on which the insurer may rely.
- **Ongoing monitoring** – To ensure the supervising entity is complying with its obligations, insurers should employ ongoing monitoring, which may include:
 1. Due diligence/compliance questionnaires: these questionnaires may be stand-alone safe harbor questionnaires or wrapped into a larger vendor process that could include cybersecurity, state specific requirements, and other topics.
 2. Periodic engagement: the insurer should periodically engage with the supervising entity's compliance and/or legal team.
 3. Data analytics: categorize sales data to analyze it from a risk perspective. The categorized data could be sorted by number of contracts and by premiums to get a risk-informed review of producers and broker-dealers or entities for key elements such as sales to older consumers, free-look cancellations, early surrenders, replacements, and others. Reviewing this data may inform the audit program, as discussed below, or may otherwise inform the nature of the due diligence an insurer conducts.
 4. Audits: a strong and effective audit program includes selecting an adequate sample size on a frequent basis and escalation procedures for any ~~broker-dealer~~

⁶ The receipt of a complaint or a supervising entity receiving a regulatory inquiry or action resulting from an exam are risk indicators that require follow-up. Moreover, relying on the lack of regulatory action is insufficient for several reasons, including that an insurer has no way of knowing the status of any regulatory exam and whether that exam focused on annuity sales.

~~or supervising~~ entity that fails to respond, up to and including termination of the relationship. Selection of audit frequency should be risk-based, based on the volume that comes through the ~~channel~~ entity as well as other risk factors available to the insurer. Generally, an insurer should audit a supervising entity with regular frequency. The audit frequency and depth will depend on the strength of the other elements of the monitoring program. Post-audit, the insurer should ensure the supervising entity corrects and identifies the root cause of any identified problem.

5. Registered Annuities: A regulatory exam that focuses on the supervising entity's annuity sales is strong evidence on which an insurer can rely as part of its monitoring program.
- **Certifications** – Certifications of compliance from the supervising entity are required annually where the partner has assumed the contractual performance of the insurer's 6(C)(1) obligation.⁷ Insurers should also require certifications to cover the entity's compliance with a comparable standard since certifications serve other purposes for insurers. A meaningful certification is detailed and active.

PROVIDING INFORMATION AND REPORTS

Insurers must provide supervising entities with sufficient data to make informed decisions. This may include reports on customer demographics, annuity features, and other relevant factors. Data sharing ensures both parties can oversee transactions effectively without duplicating efforts.

~~The Model Regulation is principles-based, allowing insurers flexibility to design compliance procedures suited to their business.~~

Information the insurer might share with the supervising entity includes the following:

- Total contracts issued through the producer over the period, including number and type of annuity;
- Amount of commissions paid for each sale to that producer over the period;
- ~~Whether the insurer issued any other annuities for the same producer, and if so, how many;~~
- Number of internal replacements ~~issued~~initiated by the same producer;
- Number of contracts issued where the consumer was older than a certain age;
- Number of contracts issued with a death claim pending or complete;
- Number of consumer complaints or lawsuits received by the insurer related to the producer;
- Number of contracts for the producer that were surrendered less than 2 years from policy issue, between years 2-5, between years 6-10, and more than 10 years from issuance; or
- Whether any surrenders were subject to surrender charges.

CONCLUSION

Annuities ~~are complex products that~~ may not suit all consumers. Insurers are responsible for implementing effective supervisory systems, ~~training contracted entities~~, and ensuring compliance with the Model Regulation's best interest requirements. By adhering to these principles, insurers can protect consumers while meeting their regulatory obligations. This guidance emphasizes the active monitoring that must occur for insurers to issue annuities pursuant to the safe harbor.

⁷ 6(C)(3)(b)(ii).

Adopted by the Life Insurance and Annuities (A) Committee, Dec. 9, 2025
Adopted by the Annuity Suitability (A) Working Group, Nov. 5, 2025

ANNUITY BEST INTEREST REGULATORY GUIDANCE AND CONSIDERATIONS

SUMMARY

In Spring 2020, the National Association of Insurance Commissioners adopted the *Suitability in Annuity Transactions Model Regulation*, Model 275-1 (“the Model Regulation”). The Model Regulation requires producers to act in the best interest of the consumer when recommending annuities and obligates insurers to establish supervisory systems that ensure recommendations address the consumer’s insurance needs and financial objectives at the time of the transaction.

To account for existing standards applicable to producers also acting as registered representatives, investment adviser representatives, or plan fiduciaries, the Model Regulation includes a safe harbor provision.¹ This provision allows insurance producers to satisfy the Model Regulation’s requirements if they comply with business rules, controls, procedures, and supervisory systems that satisfy a comparable standard, even if the comparable standard does not directly apply to the annuity product or recommendation.

Central to the purpose of the Model Regulation are the insurers’ supervisory duties. The Model Regulation is principles-based, allowing insurers flexibility to design compliance procedures suited to their business. This guidance clarifies supervisory obligations for insurers that issue annuities sold under the safe harbor.

REQUIREMENTS OF THE SAFE HARBOR

To rely on the safe harbor provision, the financial professional must be subject to or apply a comparable standard (as defined in the Model Regulation), and insurers must also meet the following requirements:

1. **Monitoring:** Insurers must monitor the relevant conduct of the financial professionals’ (or entity responsible for supervising the financial professional) using information gathered in the normal course of an insurer’s business.²
2. **Reporting:** Insurers must provide supervising entities (e.g., broker-dealers) with sufficient data for the supervising entity to maintain effective oversight systems.

As discussed further in Monitoring Relevant Conduct – Onboarding below, insurers should also reasonably verify that the safe harbor conditions are satisfied, which can be done when an insurer onboards a supervising entity.

¹ Section 6(E)(1). The prohibited practices in Section 6(D) still apply in safe harbor transactions.

² A financial professional is a producer that is regulated and acting as

- (a) A broker-dealer registered under federal [or state] securities laws or a registered representative of a broker-dealer;
- (b) An investment adviser registered under federal [or state] securities laws or an investment adviser representative associated with the federal [or state] registered investment adviser; or
- (c) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto. *See Section 6(E)(3).*

DISCUSSION

The safe harbor applies when insurance producers recommending annuities operate under comparable standards, such as those required by the SEC's Regulation Best Interest (Reg BI) and applicable FINRA rules (2330, 3110, 3120, and 3130).³

The safe harbor may be applied if the annuity is a federally registered security and the recommendation is subject to Reg BI and FINRA rules.⁴ However, under appropriate circumstances, the safe harbor may also be applied to fixed annuities (unregistered fixed and fixed indexed annuities). While Reg BI does not directly apply to fixed annuities, the safe harbor ensures insurance producers supervised under securities regulations can use those supervisory control systems if the broker-dealer applies its Reg BI business rules, controls, and procedures to fixed annuities.

INSURERS' 6(C)(1) OBLIGATION

Even under the safe harbor, insurers must comply with Section 6(C)(1) and have a reasonable basis to believe an annuity meets a consumer's financial and insurance needs. This is required whether that annuity is a federally registered security or a fixed annuity. An insurer may contract for performance of this supervisory function pursuant to Section 6(C)(3)(a) so long as it monitors the conduct of the supervising entity, including by conducting audits, as appropriate. An insurer that issues an annuity recommended by a producer relying on the safe harbor and that contractually assigns the 6(C)(1) obligation has to

- 1) “[m]onitor the relevant conduct of . . . the entity responsible for supervising the financial professional,” pursuant to Section 6(E)(3) and
- 2) monitor “and, as appropriate, conduct[...] audits to assure the contracted function is properly performed” pursuant to Section 6(C)(3)(b).

The insurer's monitoring program must be constructed with these two similar but distinct monitoring obligations in mind.

SAFE HARBOR USE CASES

The safe harbor may be used in the following situations:

- A licensed insurance producer is also registered as a registered representative and is subject to the supervisory control system of a registered securities broker-dealer.
- A licensed insurance producer who is also an investment adviser representative is subject to a comparable standard.
- A licensed insurance producer, subject to a comparable standard, may make recommendations of annuities not registered with the SEC, such as fixed annuities or fixed indexed annuities.

³ <https://www.finra.org/finramanual/rules/r3110>; <https://www.finra.org/finramanual/rules/r3120>; <https://www.finra.org/finramanual/rules/r3130>; <https://www.finra.org/rules-guidance/rulebooks/finra-rules/2330>

⁴ While most of the examples and information included address a broker-dealer distribution model, a similar analytical framework, with the appropriate flexibility, would apply to an insurance carrier's obligations when entering into a distribution model with investment advisers and plan fiduciaries.

An insurer's obligation to ascertain the adequacy of the supervising entity's procedures, discussed further below, does not require the insurer to dictate specific policies to the supervising entity.

MONITORING RELEVANT CONDUCT

To meet safe harbor requirements, insurers must monitor the insurance producer or their supervising entity. An effective monitoring program involves the insurer taking active steps to assure itself that the supervising entity is complying with its obligations. Simply awaiting complaints or regulatory actions after regulatory exams are passive approaches that are inadequate in and of themselves.⁵ Effective monitoring can include the following:

- **The Contract** – Where the supervising entity is handling the compliance obligations for the insurer, a written contract reduces misunderstanding between the parties as to who is doing the supervising. Contractual provisions may also be used to convey the insurer's expectations and require the supervising entity to perform contracted responsibilities.
- **Onboarding** – When an insurer onboards a supervising entity, it should review policies and procedures to ensure the compliance arrangement will satisfy the safe harbor through an adequate supervisory system. Insurers should review the policies of the supervising entities to see how they address the unique features of annuity contracts, including their long-term guarantees and surrender charges. An insurer should also review regulatory actions against the supervising entity. For companies that sell both registered and unregistered annuities, one aspect of this inquiry may be to understand if the policies that the broker-dealer or entity developed for the sale of registered annuities also apply to the sale of unregistered annuities (with modest modifications for the product differences). If they do, this is useful evidence on which the insurer may rely.
- **Ongoing monitoring** – To ensure the supervising entity is complying with its obligations, insurers should employ ongoing monitoring, which may include:
 1. Due diligence/compliance questionnaires: these questionnaires may be stand-alone safe harbor questionnaires or wrapped into a larger vendor process that could include cybersecurity, state specific requirements, and other topics.
 2. Periodic engagement: the insurer should periodically engage with the supervising entity's compliance and/or legal team.
 3. Data analytics: categorize sales data to analyze it from a risk perspective. The categorized data could be sorted by number of contracts and by premiums to get a risk-informed review of producers and broker-dealers or entities for key elements such as sales to older consumers, free-look cancellations, early surrenders, replacements, and others. Reviewing this data may inform the audit program, as discussed below, or may otherwise inform the nature of the due diligence an insurer conducts.
 4. Audits: an effective audit program includes selecting an adequate sample size on a frequent basis and escalation procedures for any supervising entity that fails to respond, up to and including termination of the relationship. Selection of audit

⁵ The receipt of a complaint or a supervising entity receiving a regulatory inquiry or action resulting from an exam are risk indicators that require follow-up. Moreover, relying on the lack of regulatory action is insufficient for several reasons, including that an insurer has no way of knowing the status of any regulatory exam and whether that exam focused on annuity sales.

frequency should be risk-based, based on the volume that comes through the entity as well as other risk factors available to the insurer. Generally, an insurer should audit a supervising entity with regular frequency. The audit frequency and depth will depend on the strength of the other elements of the monitoring program. Post-audit, the insurer should ensure the supervising entity corrects and identifies the root cause of any identified problem.

5. Registered Annuities: A regulatory exam that focuses on the supervising entity's annuity sales is strong evidence on which an insurer can rely as part of its monitoring program.
 - **Certifications** – Certifications of compliance from the supervising entity are required annually where the partner has assumed the contractual performance of the insurer's 6(C)(1) obligation.⁶ Insurers should also require certifications to cover the entity's compliance with a comparable standard since certifications serve other purposes for insurers. A meaningful certification is detailed and active.

PROVIDING INFORMATION AND REPORTS

Insurers must provide supervising entities with sufficient data to make informed decisions. This may include reports on customer demographics, annuity features, and other relevant factors. Data sharing ensures both parties can oversee transactions effectively without duplicating efforts. Information the insurer might share with the supervising entity includes the following:

- Total contracts issued through the producer over the period, including number and type of annuity;
- Amount of commissions paid for each sale to that producer over the period;
- Number of internal replacements initiated by the same producer;
- Number of contracts issued where the consumer was older than a certain age;
- Number of contracts issued with a death claim pending or complete;
- Number of consumer complaints or lawsuits received by the insurer related to the producer;
- Number of contracts for the producer that were surrendered less than 2 years from policy issue, between years 2-5, between years 6-10, and more than 10 years from issuance; or
- Whether any surrenders were subject to surrender charges.

CONCLUSION

Annuities may not suit all consumers. Insurers are responsible for implementing effective supervisory systems and ensuring compliance with the Model Regulation's best interest requirements. By adhering to these principles, insurers can protect consumers while meeting their regulatory obligations. This guidance emphasizes the active monitoring that must occur for insurers to issue annuities pursuant to the safe harbor.

⁶ 6(C)(3)(b)(ii).