

Not Quite Across the Suitability Finish Line

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While everyone may be growing weary, the work to revise the state insurance standard of care for annuity transaction recommendations is not quite finished. There are still a number of miles left on this marathon run, as follows:

- State adoption of revisions to their suitability requirements to conform to the 2020 revisions to the NAIC Suitability in Annuity Transactions Model Regulation #275.
- Drafting NAIC frequently asked questions guidance to states and industry.
- Drafting revisions to the NAIC Market Regulation Handbook.

Except for Iowa and Arizona, the remaining states have yet to make revisions to their suitability requirements to conform to the 2020 NAIC Suitability in Annuity Transactions Model Regulation #275. During the Annuity Suitability Working Group's ("Suitability WG") July 29 call:

- Idaho reported that updates to its suitability requirements have been submitted to the legislature to be discussed during the January 2021 session.
- Kentucky advised that it is required by state law to review its suitability regulation this year and plans to update its suitability language in August.
- Ohio noted that it expects to start the legislative process in August or September with a target date of January 1, 2021.
- Rhode Island noted that it is in the preliminary phases of preparing suitability regulation for review.

On August 17, Michigan introduced House Bills 6112, 6113, 6114, and 6115 to update its state suitability requirements. Other states are believed to be in the process of updating their suitability requirements.

As part of its charge to promote greater uniformity across NAIC-member jurisdictions, the Suitability WG is preparing an FAQ. A draft has been exposed for comment, and the Suitability WG anticipates discussing comments during a September meeting. To cheer the states across the finish line, the draft NAIC FAQ reminds the states that they need to work toward adopting the 2020 revisions for section 989J of the Dodd-Frank Wall Street Reform and Consumer Protection Act (commonly called the “Harkin amendment”) that apply to the sale of certain non-SEC registered insurance products.

As the 2020 revisions are being adopted by the states, the NAIC will need to update its Market Regulation Handbook to revise the standards for conducting a suitability examination. Work has not yet started on this effort.

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