Trick or Treat? Halloween Meeting of NAIC's Contingent Deferred Annuity Working Group

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During its October 31 conference call, the NAIC's Contingent Deferred Annuity (CDA) Working Group startled issuers and those considering issuing CDAs by reawakening a discussion on whether CDAs should contain nonforfeiture or cancellation benefits. While this issue had appeared to be dead, as the CDA Working Group previously recommended that the Standard Nonforfeiture Law for Individual Deferred Annuities specifically exclude CDAs, some regulators seemed haunted by the fact that, under certain circumstances, an issuer could terminate a CDA. The hobgoblin is the issuer's ability to terminate a CDA if there is a change in the portfolio or "covered assets" when the consumer had no role in the change. One regulator posited that it would be a horrific result for those consumers who have paid "not an insubstantial" amount of CDA fees to have their CDA terminated because of a change in the management of the covered assets. Several regulators believed that a reincarnated version of the retrospective nonforfeiture formula could provide the consumer protections they sought. Insured Retirement Institute (IRI) stated that the industry was aware of the concerns raised by regulators and advised that there might be a variety of solutions based on the different product designs for CDAs. The IRI suggested that any evil might be warded off by including in the NAIC's proposed *Guidance for the Financial Solvency and Market Conduct Regulation of Insurers who offer Contingent Deferred Annuities* advice to states to consider whether additional consumer protection features are needed in a CDA product as part of the state's review of the CDA filing. The CDA Working Group asked the IRI to provide, at the Fall National Meeting, examples of how this consumer issue could be resolved. The CDA Working Group plans to resurrect its discussion of this hair-raising issue at its November 16 meeting. In addition, it plans to review comments on its draft *Guidance for Financial Solvency and Market Conduct Regulation of Insurers who offer Contingent Deferred Annuities*. Finally, it hopes to adopt its proposed changes to the *Annuity Disclosure Model Regulation, Suitability in Annuity Transactions Model Regulation, Advertisement of Life Insurance and Annuities Model Regulation*, and *Life Insurance and Annuities Replacement Model Regulation*.

Authored By

Ann Young Black

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