

As Students Return to School, Regulators Continue Their Study of the NAIC's Suitability in Annuity Transaction Model Regulation

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At the 2018 NAIC Summer National Meeting, regulators continued their efforts to define the standard of care that applies to recommendations. This subject was discussed at both the Annuity Suitability (A) Working Group (Suitability WG) and Life Insurance and Annuities (A) Committee (A Committee) meetings.

The first lesson covered whether life insurance should be included in the proposed revisions to the Suitability in Annuity Transactions Model Regulation (Suitability Model). New York raised its hand with an answer, arguing at the A Committee meeting that a best interest standard should apply to life insurance. New York recognized this might exceed the Suitability WG's current lesson plan, but suggested, with California and Washington D.C.'s support, that the A Committee revisit the subject in the future.

Another lesson concerned whether the Suitability Model should apply to in-force transactions. At the Suitability WG meeting, Director Cameron lectured that, anytime a producer is in front of a consumer, she has the responsibility to review existing contracts. Unsurprisingly, New York raised its hand again to concur. The ACLI and IRI warned that this change would greatly expand an insurer's homework under the Suitability Model and impact the servicing of annuity policies. The IRI noted that extending the Suitability Model to in-force transactions would be significant because annuity holders may exercise several contractual rights over the life of the contract.

The final lesson addressed "material conflict of interest." At the Suitability WG meeting, California suggested that regulators sharpen their pencils and expand on the current definition to clarify that

the consumer's interest must be placed before those of the producer and insurer. On the other side of the playground, the IRI and NAFA argued for the use of the well-established definition of "material conflict of interest" from *Basic v. Levinson*.

As the school bell rang, Director Cameron called for recess and said the Suitability WG would finish the course another day. On September 7, the Suitability WG called an end to the recess and scheduled a two-day interim meeting in Chicago on October 22-23.

We will continue to monitor the activities of the Suitability WG and the A Committee during the new semester.

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