

# Life, Annuity, and Retirement Solutions

## Overview

We serve the needs of the life, annuity, and retirement solutions industry. We have represented life insurance companies throughout the United States in national bet-the-company class action and complex commercial litigation cases. Our attorneys are recognized as not just “litigators” but as experienced trial lawyers with the depth to efficiently and creatively defend against both traditional and new issues raised by plaintiffs’ lawyers under state and federal law. We bring an integrated and complementary approach to servicing our life insurance clients by drawing on the collective experience of our business, regulatory, and litigation attorneys.

The life insurance industry group works closely with our practice groups to provide counseling, litigation, and dispute resolution to life insurers in the securities, ERISA, federal tax and state regulatory areas on product development, sales and distribution issues, business combinations and state regulatory advice, market conduct examinations, and hearings.

## Insurance Business Counseling

Our business and regulatory attorneys counsel life insurance clients on a variety of transactions, business arrangements, insurance products, and distribution matters under federal and state securities laws, FINRA regulations, and state insurance laws. Our lawyers have worked with the various state and federal regulators. Our attorneys counsel insurance industry clients on business matters in the following key areas:

### *Product Design*

Including work with actuaries and product filing staff for fixed index annuities, variable products, market-value-adjustment products, synthetic annuities, and other innovative products.

### *Securities Regulation*

Including status questions under the Securities Act, Securities Exchange Act, and Investment Company Act of 1940 (1940 Act); 1940 Act regulation of separate accounts and mutual funds that serve as underlying investment vehicles for insurance products; and compliance with the federal and state securities laws, including the Sarbanes-Oxley Act.

### *State Insurance Regulation*

Including contract and form filings; licensing of insurance companies, producers, managing general agents, underwriters, and consultants; and compliance with required contract terms, standard non-forfeiture law, disclosure, replacement, suitability, unfair trade practice, and other regulatory requirements.

### *Compliance Oversight and Best Practices*

Including administrative and operational compliance with state and federal regulatory requirements, mock regulatory examinations, and development of industry best practices.

### *Distribution and Marketing*

Including structuring arrangements between insurance companies and banks, brokerage firms, and marketing organizations; and assistance with FINRA regulation of member firms and producers.

### *Market Conduct Examinations and Regulatory Investigations*

Including responding to initial regulatory findings and initiating and participating in contested case hearings.

### *Advertising Review*

Including substantive reviews for compliance with both state insurance and federal securities laws and regulations; assistance with state and FINRA filings; and assistance with responding to, and resolving, regulatory comments.

### *Organization and Transactions*

Including life insurance company formation, mergers and acquisitions through stock and asset acquisition, including reinsurance arrangements, reorganizations, and dissolutions; and separate account transfers and reorganizations.

### *Privacy and Data Security Regulations*

Including compliance with SEC Regulation S-P and state insurance privacy requirements.

### *Private and Public Offerings and Financial Reporting*

Including SEC-registered offerings and private placement of U.S. and offshore offerings of insurance securities products, and Exchange Act financial reporting.

### *Tax and ERISA*

Including a broad range of matters related to qualified and nonqualified retirement plans, health and other welfare benefit plans, annuities and IRAs, including the tax qualification of annuities and

life insurance contracts; and representing clients before the Internal Revenue Service and the Department of Labor.

## Litigation and Dispute Resolution Services

We represent life insurance clients in federal and state courts at all stages of litigation, primarily as lead defense counsel, but also as the initiator of actions, pursuing our clients' claims. Our experience includes disposal of actions, including putative class actions, at the earliest stages of the litigation, as well as bench and jury trials of major class and mass actions and high-dollar individual civil and criminal cases. We have also worked as relief counsel where clients experienced an adverse result while represented by other counsel. In addition, we have preserved trial court wins on appeal, and obtained appellate reversals of adverse rulings, including certifications of class actions.

Learn more about our [life insurance and annuities litigation](#) practice.

## SEC/FINRA

We represent clients on a broad range of matters before the SEC and FINRA. Our lawyers focus on providing practical advice and insights based on decades of experience. Learn more about our [securities capabilities](#).

## Investment Companies and Advisers

We provide a full range of services to investment companies and their boards of directors/trustees, and investment advisers.

### *Organization and Operation*

We help organize a variety of different registered and unregistered investment companies, including mutual funds, fund of funds, closed-end funds, and ETFs. We help organize investment advisers. We also advise on operational requirements imposed by the federal securities laws. Whether clients are negotiating a secured lending arrangement or preparing for a board meeting, we can assist.

### *Registration, Proxies, and Reports*

Our lawyers guide clients through the SEC registration process, from early preparation and vetting of personnel through effectiveness of their registration statement or approval of their adviser application. We also advise on federal and state requirements for shareholder meetings and proxy voting, as well as the requirements for periodic reports to shareholders and to the SEC.

### *Compliance*

We help develop Rule 38a-1 and Rule 204(6)-7 compliance programs and policies, conduct annual compliance reviews, and prepare for regulatory examinations. Our team includes members with experience as chief compliance officers and SEC-approved independent compliance consultants.

### *Regulation*

Our lawyers have extensive experience with matters involving the regulation of investment companies and investment advisers. This experience includes, for example, analyzing the need to register with the SEC, preparing interpretive and no-action requests to the SEC staff, and seeking exemptive relief from SEC regulation. We advise on questions that arise under state “blue sky” laws, the Commodity Exchange Act, and all federal securities laws.

### *Transactions*

We advise on a variety of transactions involving investment companies and advisers, such as mergers, asset transfers, portfolio “lift outs,” substitutions, redomestications, intact transfers of separate accounts, and liquidations. In particular, we advise on the many regulatory, tax, and due diligence issues that arise when an investment company or adviser is involved in a larger corporate transaction.

### *Distribution and Marketing*

Our lawyers have extensive experience with investment company and adviser advertising, marketing, and distribution matters. This experience includes matters involving principal underwriters (including statutory underwriter questions), broker-dealers and selling groups, and independent marketing organizations (IMOs). Our experience also includes handling the unique issues that arise when selling through the RIA channel. We guide clients through the FINRA advertising review process and advise on the regulatory requirements that apply to sales materials.

### *Tax and ERISA*

We counsel clients on the unique federal tax and ERISA issues that pertain to investment companies and advisers including advice regarding the IRS code requirements for favorable tax treatment as a regulated investment company. We also counsel advisers on any ERISA obligations they may have in connection with their activities with ERISA-covered plans, including ERISA’s fiduciary responsibility provisions.

## Variable and Other Insurance Products

We provide a full range of legal and regulatory services to insurance companies, broker-dealers and service providers relating to the design, marketing, and sale of variable insurance products, individual and group annuities, fixed indexed annuities, market-value-adjustment products, synthetic annuities, BOLI, funding agreements, stable value wrap contracts, and other innovative products.



### *Registration*

Our lawyers have extensive experience with SEC registration of variable life insurance and variable annuity products under the Securities Act of 1933 (Securities Act) as well as SEC registration (and subsequent deregistration) of related separate accounts and investment companies under the Investment Company Act of 1940 (1940 Act).

### *Regulation*

We advise on a variety of interpretive issues, including writing opinions that certain life insurance company products are not required to be registered under the Securities Act and that certain life insurance company accounts are not required to be registered under the 1940 Act. Our experience also includes drafting and reviewing applications for exemptions and requests for no-action relief, and advising on offerings made outside the United States.

### *Compliance*

We assist with the preparation and review of variable and fixed annuity suitability programs, policies and procedures required under FINRA rules and state insurance law. Our lawyers have extensive experience drafting and reviewing compliance policies and procedures as well as advising on Sarbanes-Oxley Act compliance matters.

### *Transactions*

Our lawyers have extensive experience working on a variety of transactions involving variable products, including separate account mergers, asset transfers, substitutions, redemptions, intact transfers of separate accounts, and liquidations.

### *Distribution and Marketing*

Our lawyers have extensive experience with variable product advertising, marketing, and distribution matters. This experience includes application of regulatory requirements to performance presentations, websites, and sales materials as we guide clients through the FINRA advertising review process. In addition to reviewing advertising and promotional material, we advise and assist in negotiating and documenting arrangements with distributors, joint venturers, and service providers.

### *Tax, ERISA, and State Insurance Law*

We advise on Federal Tax matters, ERISA, and state insurance law issues relating to insurance products. Our lawyers have extensive experience working with insurers to ensure product designs qualify for favorable tax treatment under federal tax laws. We also counsel clients on complex employee benefit plan issues, including an entity's fiduciary status under ERISA and on obtaining advisory opinions and prohibited transaction exemptions from the Department of Labor.

## Broker-Dealers

We provide a full range of services to broker-dealers. *Organization and Registration*

We guide clients through broker-dealer formation and registration. We also advise on registered representative registration filings and related issues.

#### *Compliance*

We draft written supervisory procedures and other supervisory control policies and procedures. We also draft and advise on suitability policies and procedures. Our experience includes providing compliance and risk evaluation reviews. We also counsel clients on AML and OFAC compliance, books and records requirements, cash and non-cash compensation arrangements and fee referral issues, and email retention and production.

#### *Regulation*

We advise on broker-dealer reporting obligations and a variety of investment-related distribution issues. Our lawyers have extensive experience providing substantive reviews of advertising and sales literature for compliance with federal and state laws and regulations. Our experience also includes advising on matters relating to regulatory examinations and investigations.

#### *Disputes and Arbitration*

Our lawyers have extensive experience in customer complaint handling and FINRA arbitration. We also advise on registered representative termination filings and related issues and provide employee/registered representative dispute counseling.

## Unclaimed Property

We apply our unique focus to represent and counsel our insurance clients on a broad spectrum of unclaimed property matters, including:

- Strategies and responses to examinations by state insurance departments, state unclaimed property regulators, and auditing organizations acting on their behalf.
- Litigation brought against insurance companies by state agencies alleging violation of unclaimed property laws.
- Insurance company operational issues implicated by unclaimed property law compliance and remediation, including requirements to use the Social Security Death Master File (DMF) to identify policies and contracts subject to death claims.
- General compliance with unclaimed property requirements, including voluntary self-auditing and reporting.

- Compliance with unclaimed property requirements as they apply specifically to various types of insurance policies and annuity contracts and benefits thereunder, and to the amounts held in retained asset accounts.
- Reporting and compliance issues under state insurance law, such as responding to New York's 2011 Section 308 letters.
- Securities law issues associated with unclaimed property compliance, including prospectus disclosure and operational considerations for variable products that may impact compliance with unclaimed property laws.
- Reinsurance recovery of escheated benefit payments.

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*The Investment Lawyer*

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STOA Schemes Face Increased Regulatory Scrutiny

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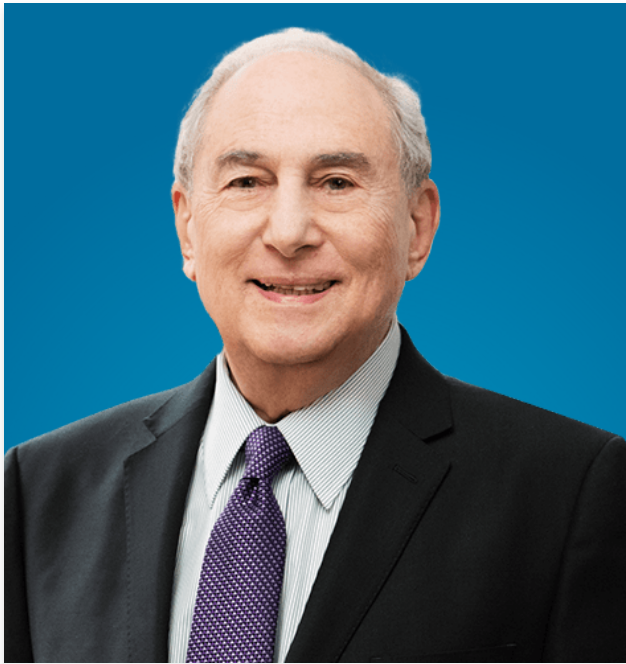
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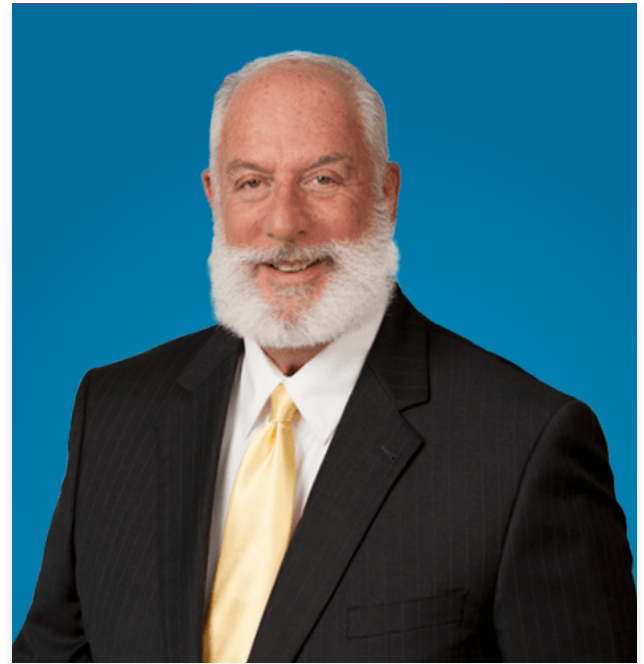
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## Related Capabilities

### Practices

- Business Transactions
- Cybersecurity and Privacy
- Cost of Insurance and Other Challenges to Non-Guaranteed Element Determinations
- ERISA Employee Benefit Plan Litigation
- Financial Services Regulatory
- FINRA Enforcement, Arbitration, and Appeals
- Life, Annuity, and Retirement Litigation
- Litigation and Trials

### Industries

- Property & Casualty Insurance
- Banking, Commercial, and Consumer Finance
- Life, Annuity, and Retirement Solutions
- Securities & Investment Companies

- Reinsurance
- Sales Practices – Market Conduct Litigation
- Securities Litigation and Enforcement
- SEC Enforcement
- Securities Transactions and Compliance
- Tax
- Digital and E-Commerce Engagement and Innovation
- Insurtech
- Government Affairs and Lobbying
- Banking, Commercial, and Consumer Finance
- Life, Annuity, and Retirement Solutions
- Class Actions