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**Electronically Submitted to [InsuranceRegReview.mia@maryland.gov](mailto:InsuranceRegReview.mia@maryland.gov)**

August 9, 2021

Commissioner Kathleen A. Birrane  
The Maryland Insurance Administration  
200 St. Paul Place, Suite 2700  
Baltimore, Maryland 21202

**Re: Draft Regulation: 31.09.12 - Suitability in Annuity Transactions**

Dear Commissioner Birrane:

On behalf of our members, the Insured Retirement Institute (IRI)<sup>1</sup> writes in support of the proposal by the Maryland Insurance Administration to amend Md. Code Reg. § 31.09.12. These rules establish the standards that must be followed by an insurance agent or insurer when recommending or selling an annuity, and the proposed amendments are well-aligned with the enhanced Suitability in Annuity Transactions Model Regulation approved by the National Association of Insurance Commissioners (NAIC) in early 2020. We are pleased to support the proposed amendments, and we respectfully request that the Maryland Insurance Administration consider certain changes to the proposed regulation, as outlined below.

As you know, the revised NAIC model is consistent with the heightened standards of conduct imposed by the U.S. Securities and Exchange Commission's Regulation Best Interest (Reg BI), which went into effect as of June 30, 2020. Similar to Reg BI, the revised model requires insurance producers to act in the best interest of the consumer under the circumstances known at the time a recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. In addition to the enhancements to the applicable standard of conduct and supervisory requirements, the revised model also reflects important adjustments to the training provisions and the FINRA safe harbor included in the prior version of the model.

Strong, consistent regulation is important to protect consumers and to preserve consumers' choice of financial advice and products that meet their financial and retirement planning needs. This regulation is an important

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<sup>1</sup> The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., include the top 10 distributors of annuities ranked by assets under management, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

enhancement to the standard that applies when producers recommend annuities to their clients. We commend Maryland for undertaking to adopt the latest version of the NAIC model, and we hope to see other states follow your lead.

With all this in mind, we respectfully offer the following comments on the proposed amendments:

1. In order to ensure consistency with the NAIC model and avoid confusion, we would suggest that proposed section 31.09.12.02(A) Scope be adjusted as follows:

(A) This chapter applies to ~~any sale or each recommendation to purchase, exchange, or replace~~ of an annuity ~~made to a consumer by a producer, or an insurer where no producer is involved, that results in the purchase, exchange, or replacement recommended;~~

2. In order to ensure consistency with the NAIC model and if not addressed elsewhere in the Maryland statutes or regulations, we recommend that 31.09.12.09 Compliance and Penalties be adjusted as follows:

C. Penalties

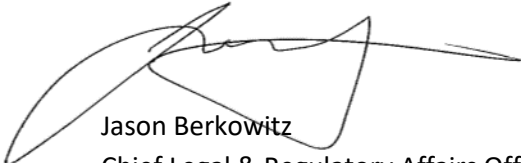
~~(3) Any applicable penalty under [insert statutory citation] for a violation of this regulation may be reduced or eliminated [, according to a schedule adopted by the commissioner,] if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.~~

~~D. The authority to enforce compliance with this regulation is vested exclusively with the commissioner.~~

3. In order to ensure consistency with the NAIC Model, we recommend that 31.09.12.07(F) be deleted. While we understand this language is included in a drafting note of the NAIC model, we believe that the language of the NAIC model is sufficient as is without inclusion of the drafting note.
4. Effective implementation of the significant enhancements embodied in the proposal will require substantial efforts by our member companies operating in Maryland. Past amendments to the NAIC model have provided six (6) months for implementation, and we believe the same time period would be appropriate here. As such, we respectfully request that the proposed amendments take effect no earlier than six (6) months following the date of adoption.
5. On a related note, we have encountered significant confusion in other states that have adopted the latest version of the NAIC model with respect to the timeline for completion of the training required thereunder. As a result, the NAIC issued a set of [frequently asked questions \(FAQs\)](#) in July 2021 that, among other things, addressed a number of questions related to the producer training requirement. As a supplement to those FAQs and to further assist the industry and the regulators in navigating this complex situation, we have developed the chart attached as [Appendix A](#) to outline precisely what training would be required and when, under a number of different scenarios. Note that this chart does not include every conceivable scenario, but we believe it covers the most common scenarios. We respectfully request and strongly encourage you to use this chart to guide the implementation of the training requirement in Maryland in order to avoid the confusion that has been encountered by regulators and industry in other states.

In conclusion, we are pleased to support the adoption of the proposed amendments to Md. Code Reg. § 31.09.12, and we appreciate your consideration of our recommended changes as described above. We look forward to working with the Maryland Insurance Administration on implementation of these important revisions.

Sincerely,



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## Appendix A

	Licensing Status	Training Status	Training Requirement
SCENARIO #1	Producer applies for license in 2020 Model state <sup>1</sup> (" <b>State A</b> ") on or after effective date <sup>2</sup> <b>AND</b> Producer is <u>NOT</u> licensed in any other 2020 Model state before effective date	Producer has <u>NOT</u> completed any version of annuity training course	Producer must complete new 4-credit course in <b>State A</b> before selling annuities in <b>State A</b>
SCENARIO #2	Producer applies for a license in <b>State A</b> on or after effective date <b>AND</b> Producer is licensed in any other 2020 Model state (" <b>State B</b> ") before effective date	<b>SCENARIO #2-A</b>	
		Producer has <u>NOT</u> completed any version of annuity training course	Producer must complete new 4-credit course in <b>State A</b> before selling annuities in <b>State A</b>
		<b>SCENARIO #2-B</b>	
		Producer has completed old 4-credit course <sup>3</sup> in <b>State B</b> before effective date <b>AND</b> Producer has <u>NOT</u> completed new 4-credit course <sup>4</sup> <u>OR</u> new 1-credit course <sup>5</sup> in <b>State B</b> (if not discontinued prior to completion) before effective date	Within six months after effective date, producer must complete <u>one of the following</u> in <b>State A</b> or any other 2020 Model state where licensed: (a) new 4-credit course <b>OR</b> (b) new 1-credit course (if not discontinued in state where taken)
<b>SCENARIO #2-C</b>		Before effective date, Producer has completed either: (a) new 4-credit course in <b>State B</b> <b>OR</b> (b) old 4-credit course <b>AND</b> new 1-credit course in <b>State B</b>	NONE (covered by reciprocity)
SCENARIO #3	Producer is licensed to sell annuities in <b>State A</b> before effective date <b>AND</b> Producer is <u>NOT</u> licensed to sell annuities in any other 2020 Model state before effective date	<b>SCENARIO #3-A</b>	
		Producer has <u>NOT</u> completed any version of annuity training course	Producer must complete new 4-credit course in <b>State A</b> before selling annuities in <b>State A</b>
		<b>SCENARIO #3-B</b>	
Producer has completed old 4-credit course in <b>State A</b> prior to effective date	Within six months after effective date, producer must complete <u>one of the following</u> in <b>State A</b> : (a) new 4-credit course <b>OR</b> (b) new 1-credit course		

<sup>1</sup> "2020 Model State" means a state in which the 2020 version of MDL 275 has been enacted by legislation or adopted by regulation.

<sup>2</sup> "Effective date" means the date on which the 2020 version of MDL 275 takes effect in **State A**.

<sup>3</sup> "Old 4-credit course" means a course that met the requirements of the 2010 version of MDL 275.

<sup>4</sup> "New 4-credit course" means a course that meets the requirements of the 2020 version of MDL 275.

<sup>5</sup> "New 1-credit course" means a course that meets the requirements for the 1-credit option in the 2020 version of MDL 275.