



**Insured Retirement Institute**  
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**Electronically Submitted to [mmanning@doi.sc.gov](mailto:mmanning@doi.sc.gov)**

October 25, 2021

Director Raymond G. Farmer  
South Carolina Department of Insurance  
1201 Main Street, Suite 1000  
Columbia, South Carolina 29201

**Re: Draft Regulation: 69-29 - Suitability in Annuity Transactions**

Dear Director Farmer:

On behalf of our members, the Insured Retirement Institute (IRI)<sup>1</sup> writes in support of the proposal by the South Carolina Department of Insurance to amend Regulation 69-29. 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 South Carolina Department of Insurance 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 enhancement to the standard that applies when producers recommend annuities to their clients. We commend South Carolina for undertaking to adopt the latest version of the NAIC model, and we hope to see other states follow your lead.

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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.

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 recommend that Section II. Scope be adjusted as follows:

This regulation shall apply to any sale or recommendation ~~of to purchase, exchange or replace~~ an annuity.

2. In order to ensure consistency with the NAIC model and to provide important clarity around the application of the best interest obligation, we recommend that the following language be added as a new subsection A.(5) under Section V. Duties of Insurers and of Insurance Producers:

(5) Application of the best interest obligation. Any requirement applicable to a producer under this subsection shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

3. In order to ensure consistency with the NAIC Model and avoid confusion about whether these training requirements are substantially similar to those in other states, we recommend that subsection B.(3)(c) of Section VI. Producer Training be adjusted as follows:

(c) How ~~product specific fixed, variable and indexed~~ annuity contract ~~features provisions~~ affect consumers;

4. 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 South Carolina 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 Regulation 69-29, and we appreciate your consideration of our recommended changes as described above. We look forward to working with the South Carolina Department of Insurance on implementation of these important revisions.

Sincerely,



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	Licensing Status	Training Status	Training Requirement
SCENARIO #1	<p>Producer applies for license in 2020 Model state<sup>1</sup> ("<b>State A</b>") on or after effective date<sup>2</sup></p> <p><b>AND</b></p> <p>Producer is <u>NOT</u> licensed in any other 2020 Model state before effective date</p>	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	<p>Producer applies for a license in 2020 Model state ("<b>State B</b>") on or after effective date</p> <p><b>AND</b></p> <p>Producer is licensed in any other 2020 Model state ("<b>State C</b>") before effective date</p>	<b>SCENARIO #2-A</b>	
		<p>Producer has <u>NOT</u> completed any version of annuity training course</p>	Producer must complete new 4-credit course in <b>State B</b> before selling annuities in <b>State B</b>
		<b>SCENARIO #2-B</b>	
		<p>Producer has completed old 4-credit course<sup>3</sup> in <b>State C</b> before effective date</p> <p><b>AND</b></p> <p>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 C</b> (if not discontinued prior to completion) before effective date</p>	<p>Within six months after effective date, producer must complete <u>one of the following</u> in <b>State B</b> or any other 2020 Model state where licensed:</p> <p>(a) new 4-credit course</p> <p><b>OR</b></p> <p>(b) new 1-credit course (if not discontinued in state where taken)</p>
<b>SCENARIO #2-C</b>		<p>Before effective date, Producer has completed either:</p> <p>(a) new 4-credit course in <b>State C</b></p> <p><b>OR</b></p> <p>(b) old 4-credit course <b>AND</b> new 1-credit course in <b>State C</b></p>	NONE (covered by reciprocity)
SCENARIO #3	<p>Producer is licensed to sell annuities in 2020 Model state ("<b>State D</b>") before effective date</p> <p><b>AND</b></p> <p>Producer is <u>NOT</u> licensed to sell annuities in any other 2020 Model state before effective date</p>	<b>SCENARIO #3-A</b>	
		<p>Producer has <u>NOT</u> completed any version of annuity training course</p>	Producer must complete new 4-credit course in <b>State D</b> before selling annuities in <b>State D</b>
		<b>SCENARIO #3-B</b>	
<p>Producer has completed old 4-credit course in <b>State D</b> prior to effective date</p>	<p>Within six months after effective date<sup>6</sup>, producer must complete <u>one of the following</u> in <b>State D</b>:</p> <p>(a) new 4-credit course</p> <p><b>OR</b></p> <p>(b) new 1-credit course</p>		

<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.

<sup>6</sup> At least one 2020 Model State adopted the 2020 version of MDL 275 without the six month grace period for existing producers. In such states, the specified training must be completed by all producers seeking to recommend or sell annuities after the effective date.