STATE STANDARDS OF CONDUCT TRACKER

Updated November 18, 2021

This document[1] tracks standards of conduct imposed on financial professionals under ***state insurance and securities laws***, including but not limited to laws and regulations based on the NAIC Suitability in Annuity Transactions Model Regulation (Model #275). The Model was originally adopted by the NAIC in 2003 and has since been revised on multiple occasions (2006, 2010, 2015, 2020). An overview of the current version of the Model is provided on p.2-5. An executive summary of state-specific information is provided below, with details beginning on p. 6. See *Appendix A* for key dates related to producer training and see *Appendix B* for an overview of prior versions of the Model. Updates related to the 2020 version of the Model are shown in red text. The latest updates are highlighted in yellow.

Questions should be directed to Jason Berkowitz, *Chief Legal & Regulatory Affairs Officer* or Sarah Wood, *Director, State Policy & Regulatory Affairs*.

Executive Summary

Best Interest Standard for Insurance Producers

- Based on 2020 Model – Final Rules (16) (future effective/compliance dates shown in parentheses): Alabama (1/1/22), Arizona, Arkansas, Connecticut (3/1/2022), Delaware, Idaho, Iowa, Kentucky (1/4/22), Maine (1/1/22), Michigan, Mississippi, (7/1/22), Montana, Nebraska (1/1/22), North Dakota (1/1/22), Ohio, Rhode Island, Texas, Virginia
- Based on 2020 Model – Proposals Pending (4): Nevada, Maryland, New Mexico, Pennsylvania, South Carolina, Wisconsin
- Not Based on NAIC Model (1): New York (also covers life insurance)

Fiduciary Standard for Broker-Dealers

- Massachusetts, Nevada (proposal pending), New Jersey (proposal pending)

Suitability Standard for Insurance Producers

- Based on 2015 Model (6): Alabama (until 12/31/21), Georgia, Louisiana, Montana (until 9/30/21), Tennessee, Wisconsin
- Based on 2010 Model (31): Alaska, California, Colorado, Connecticut (until 2/28/2022), District of Columbia, Florida, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine (until 12/31/21), Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska (until 12/31/21), New Hampshire, New Jersey, North Dakota (until 12/31/21), Oklahoma, Oregon, South Carolina, South Dakota, Texas (until 8/31/21), Utah, Virginia (until 8/31/21), Washington, West Virginia, Wyoming
- Based on 2003/2006 Model (3): Nevada, North Carolina, Pennsylvania
- Not Based on NAIC Model (1): Vermont

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[1] This document does not constitute a legal opinion or conclusion by the Insured Retirement Institute, its staff, or its member companies, and should not be used as the sole basis for making individual company decisions or conclusions. IRI periodically reviews this tracker and makes updates as appropriate. Users should refer to the websites linked below for the most current and complete information.

KEY PROVISIONS IN CURRENT NAIC MODEL

Purpose	To require producers (defined to include insurers where no producer is involved) to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.
Scope and Exemptions	Applies to any sale or recommendation of an annuity, excluding transactions involving direct response solicitations or contracts used to fund employer-sponsored plans.
Consumer Information to be Obtained	A producer must make reasonable efforts to obtain consumer profile information prior to the recommendation of an annuity. "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs and financial objectives, including, at a minimum: age, annual income, financial situation and needs (including debts and other obligations), financial experience, insurance needs, financial objectives, intended use of the annuity, financial time horizon, existing assets or financial products (including investment, annuity, and insurance holdings), liquidity needs, liquid net worth, risk tolerance (including but not limited to, willingness to accept non-guaranteed elements in the annuity), financial resources used to fund the annuity, and tax status. If applicable, producers must obtain customer signed statements (see Appendix B to the Model) documenting the customer's: 1. refusal to provide the consumer profile information; and 2. understanding of the ramifications of not providing consumer profile information or providing insufficient information.
Applicable Standard	A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if they have satisfied the specified care, disclosure, conflict of interest and documentation obligations (described below). The best interest standard and the component obligations apply to every producer who exercises material control or influence in making a recommendation and receives direct compensation as a result of the recommendation or sale, regardless of whether the producer has any direct contact with the consumer. 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. The ***Care Obligation*** requires producers making a recommendation to exercise reasonable diligence, care and skill to: 1. Know the consumer's financial situation, insurance needs and financial objectives; 2. Understand the available recommendation options after making a reasonable inquiry into options available to the producer; 3. Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and 4. Communicate the basis or bases of the recommendation.

	The ***Disclosure Obligation*** requires producers to prominently disclose the following to the consumer (see Appendix A to the Model): 1. The scope and terms of the relationship with the consumer and the role of the producer in the transaction. 2. The products the producer is licensed and authorized to sell. 3. The insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for (i.e., one insurer; two or more insurers; or two or more insurers although primarily contracted with one insurer). 4. The sources and types of cash compensation and non-cash compensation to be received by the producer. 5. The consumer's right to request additional information regarding cash compensation The ***Conflict of Interest Obligation*** requires producers to identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest. The ***Documentation Obligation*** requires producers to do the following at the time of recommendation or sale: 1. Make a written record of any recommendation and the basis for the recommendation. 2. If applicable, obtain a consumer signed statement on a form substantially similar to Appendix B. 3. If applicable, obtain a consumer signed statement on a form substantially similar to Appendix C.
Exceptions to Application of the Applicable Standard	An insurer or producer will have no obligation to a consumer related to an annuity transaction if: 1. no recommendation is made; 2. a recommendation was made and later found to have been based on inaccurate material information provided by the consumer; 3. the consumer refuses to provide relevant consumer profile information and the transaction is not recommended; or 4. the consumer enters a transaction that was not recommended.
Insurer Responsibilities / Supervision	An insurer may not issue a recommended annuity unless there is a reasonable basis to believe the annuity would effectively address the consumer's financial situation, insurance needs and financial objectives based on the consumer profile information. Insurers must establish a supervision system reasonably designed to achieve compliance with this regulation, including: 1. establishing / maintaining procedures to inform producers of the requirements of this regulation and incorporating those requirements into relevant producer training manuals; 2. establishing / maintaining standards for product training and procedures to require compliance with applicable training requirements; 3. providing product-specific training and materials that explain the material features of the insurer's annuity products to producers; 4. establishing / maintaining procedures for pre-issuance review of recommendations to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the consumer's financial situation, insurance needs and financial objectives; 5. establishing / maintaining procedures to detect recommendations that do not comply with subsections A, B, D, and E;

	6. establishing / maintaining procedures to assess, prior to or upon issuance or delivery, whether a producer has provided to the consumer the information required to be provided; 7. establishing / maintaining procedures to identify and address suspicious consumer refusals to provide consumer profile information; 8. establishing / maintaining procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time 9. providing an annual written report to senior management detailing a review with appropriate testing designed to assist in determining the effectiveness of the supervision system, the exceptions found, and the corrective action taken or recommended, if any.
Third Party Performance of Supervision Functions	An insurer may contract with a third party to perform any of the insurer's required supervision functions, including maintenance of procedures. An insurer is responsible for taking appropriate corrective action to ensure that the supervision system is maintained and properly performed. An insurer's supervision system must include supervision of the contractual performance of a third party by: 1. monitoring and conducting audits as appropriate to assure that the contracted function is properly performed; and 2. annually obtaining written certification from a senior manager with responsibility for the contracted function that represents that the manager has a reasonable basis to represent, and does represent, that the contracted function is properly performed. Insurers are not required to include in their supervision system: 1. a producer's recommendation to a consumer of products other than the annuity products offered by the insurer; and 2. consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.
Prohibited Acts	Producers and insurers may not dissuade or attempt to dissuade consumer from truthfully responding to an insurer's request for confirmation of suitability information, filing a complaint, or cooperating with the investigation of a complaint.
Records and Recordkeeping	A producer, or an insurer where no producer is involved, must make a record of any recommendation. Insurers, general agents, independent agencies and producers must maintain or make available to the insurance commissioner records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making recommendations that were the basis for insurance transactions for a particular number of years (to be set by each state) after the transaction. Insurers may, but are not required, to maintain this documentation for producers.
Safe Harbor	Applies to recommendations and sales of annuities made in compliance with "comparable standards" (e.g., SEC Regulation Best Interest or fiduciary standards imposed under the Investment Advisers Act, ERISA, or the Internal Revenue Code), even if the comparable standards would not otherwise apply to the product or recommendation at issue. The insurer must: 1. not issue a recommended annuity unless there is a reasonable basis to believe the annuity would effectively address the consumer's financial situation, insurance needs and financial objectives based on the consumer profile information; 2. monitor the financial professional seeking to rely on the safe harbor or the entity responsible for supervising the financial professional using information collected in the normal course of business; and

	3. provide to the entity responsible for supervising the financial professional seeking to rely on the safe harbor information and reports reasonably appropriate to assist such entity to maintain its supervision system.
Producer Training Requirements	Product-Specific Training Requirement. A producer may not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and comply with the insurer's product training standards. A producer can rely on insurer-provided product-specific training standards and materials to meet this requirement. One-Time Training Requirement. A producer who engages in the sale of annuity products must complete a one-time four (4) credit training course that is approved by the department of insurance, provided by a department of insurance-approved training provider, and sufficient to qualify for at least four (4) CE credits. Producers who completed the required general annuity training under the prior Model must complete either (i) an update course reflecting the updates in the new model or (ii) an updated version of the full general annuity training course. Content of Required One-Time Training. The required one-time training course must include information on (a) the types and various classifications of annuities, (b) identification of the parties to an annuity, (c) how product-specific annuity contract features affect consumers, (d) the application of income taxation to qualified and non-qualified annuities, (e) the primary uses of annuities, and (f) appropriate sales practices, replacement and disclosure requirements. Compliance Dates. A producer who holds a life insurance line of authority on the effective date of the regulation must complete the required one-time training within six (6) months of the effective date. A producer who obtains a life insurance line of authority on or after the effective date must complete the required training before engaging in the sale of annuities. Reciprocity. Satisfaction of training requirements of another state that are substantially similar to those described above will satisfy the one-time training requirements in this state. Insurer Verification. An insurer must verify that a producer has completed the required one-time training before allowing the producer to sell the insurer's annuity. An insurer can satisfy this responsibility by obtaining certificates of completion of the training course, or by obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.
Penalties and Enforcement	Insurers are responsible for compliance. The Commissioner may order reasonably appropriate corrective action by: 1. An insurer for any consumer harmed by a failure to comply by the insurer, an entity contracted to perform the insurer's supervisory duties, or the producer. 2. A general agency, independent agency or producer for any consumer harmed by a violation of the regulation by the producer.
Mitigation of Penalties	Penalties for violations may be reduced or eliminated if corrective action for the consumer was promptly taken after a violation was discovered or the violation was not part of a pattern or practice

STATE ANNUITY STANDARDS OF CONDUCT LAWS AND RULES BY JURISDICTION

JURISDICTION	CITATION	BASED ON	NOTES
Alabama	Ala. Admin. Code r. § 482-1-137	2010 Model	Includes 2015 revisions
UPDATED 8/20/21	Adopted Insurance Regulation: Ala. Admin. Code r. § 482-1-137	2020 Model	**Effective date:** 1/1/2022 No problematic variations from 2020 Model, but the one-credit producer training option will not be available after 06/30/2022. Existing producers must complete required training by 06/30/2022. **Recordkeeping Period:** Three Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors
Alaska	3 Alaska Admin Code 26.770 to 26.789	2010 Model	
Arizona **UPDATED 5/7/21**	Enacted Insurance Legislation: HB 1557 (2020)	2020 Model	**Effective date:** 12/31/2020 No problematic variations from 2020 Model, but the Insurance Department has indicated that the one-credit producer training option will not be available after 7/1/2021 **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors
Arkansas **UPDATED 5/7/21**	Adopted Insurance Regulation: Arkansas Ins Dept Rule 82	2020 Model	**Effective date:** 7/8/21 (see Bulletin 34-2020) No problematic variations from 2020 Model **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors **Additional Guidance:** The Arkansas Insurance Department has taken the position that the rule became effective 1/8/21 (ten days after the rule was delivered to the Secretary of State on 12/29/20). Bulletin 34-2020 confirmed that the industry will have six months after the effective date to come into compliance, meaning compliance will be required as of 7/8/21. Bulletin 7-2021 confirmed that all producers will be required to complete the required training prior to 1/1/2022. See Arkansas Insurance Department Bulletin No. 14-2009 for guidance on sales or investment advice related to securities products by insurance producers

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California	Cal. Ins. Code § 10509.910-10509.918 California SB 924 Chapter 148 2016 (Legislation adding new provision to Suitability Information) (Enacted 2016)	2010 Model	Includes modified version of 2015 revisions **Substantive Variations from 2010 Model:** ○ Definition of Suitability Information: Expanded to include "(14) Whether or not the consumer intends to apply for means-tested government benefits, including, but not limited to, Medi-Cal or the veterans' aid and attendance benefit." ○ One-time training requirement: Producers must complete a one-time eight (8) credit-hour annuity training course approved by the commissioner. ○ Ongoing training requirement: Producers must complete four (4) CE credits prior to license renewal every two years. This requirement is part of, and not in addition to, general CE requirements in CA. Agents otherwise exempt from CE requirements are not exempt from annuity training as required per license term. ○ Content of required one-time training: Course must cover "prohibited sales practices, the recognition of indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an insurance product, and fraudulent and unfair trade practices, as well as replacement and disclosure requirements for sales of annuities." ○ Reciprocity: Training completed in another state will not satisfy training requirements. See Notice dated December 6, 2011 for guidance on producer training requirements
Colorado	4 Colo. Code Regs § 4-1-11	2010 Model	
Connecticut **UPDATED 11/10/21**	Conn. Agencies Regs. §§ 38a.432A-l to 38a.432A-8	2010 Model	

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	Adopted Insurance Regulation: Conn. Agencies Regs. §§ 38a-432a-1 to 38a-432a-8	2020 Model	**Effective date:** 3/1/2022 No problematic variations from 2020 Model **Recordkeeping Period:** Seven Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors **Additional Guidance:** IRI spoke with the General Counsel at the Connecticut Insurance Department regarding the application of the safe harbor to "variable and fixed annuities" with indexed annuities not being specifically mentioned. The General Counsel was not aware of any enforcement actions or interpretations that would exclude certain products under the language here, and it doesn't appear that this would develop into an issue for firms that are complying with the comparable standards for all products.
Delaware **UPDATED 3/16/21**	Adopted Insurance Regulation: 18 Del. Code Regs. § 1214	2020 Model	**Effective date:** 8/1/2021 (six months after adoption) No problematic variations from 2020 Model **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors
District of Columbia	D.C. Mun. Regs. tit. 26-A, § 8400 to 8499	2010 Model	
Florida	Fla. Stat. § 627.4554 Fla. Admin. Code § 69B-162.011 (Forms required)	2010 Model	**Substantive Variations from 2010 Model:** ○ Consumer Information to be Obtained: ▪ Requires collection of information defined as "suitability information" in 2010 Model. ▪ Agents must use a form adopted by the insurance department to collect suitability information, which must be provided to the insurer within 10 days and to the consumer by the contract delivery date. ▪ If applicable, agents must obtain a signed verification on a form adopted by the insurance department that the consumer refused to provide the requested information and may be limiting protections regarding the suitability of the sale. ○ Replacements: Before executing replacements, agents must provide, on a form adopted by the insurance department, information about differences between existing annuities and annuities being recommended to determine suitability of recommendations and benefits to consumers. Form must be provided to insurer within 10 days and to consumer by contract delivery date, and must include: (i) comparison of benefits, terms, limitations, and fees and charges; (ii) written basis for recommended replacement, including overall

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			advantages and disadvantages to consumer; and (iii) other information used or considered relevant by agent in recommending replacement. *IMPORTANT NOTE: IRI confirmed that Florida's suitability and replacement forms need not be used for transactions covered by the FINRA safe harbor.* ○ Additional Disclosure Requirement: Agent must disclose to the consumer that the annuity transaction may have tax consequences and that the applicant should contact his or her tax advisor for more information. ○ Prohibited Charges: Annuities sold to seniors may not impose surrender or deferred sales charges that exceed 10% of the amount withdrawn and may not impose surrender or deferred sales charges after the later of the end of the 10th policy year or 10 years after the premium is paid. This does not apply if the purchaser is an accredited investor.
	Training Requirements: Fla. Sta. § 626.281(7)		Producers must complete minimum of 3 hours of CE approved by the department on suitability in annuity and life insurance transactions. Does not apply to agents without active life insurance or annuity contracts. Department may require certification that agent has sold no life insurance or annuities during the CE compliance cycle and has no active life insurance or annuity contracts. Training can also be used to satisfy requirement for ethics CE. Reciprocity: Training completed in another state will not satisfy training requirements.
Georgia	Ga. Comp. R. & Regs. 120-2-94	2010 Model	Includes 2015 revisions
Hawaii	Haw. Rev. Stat. §§ 431:10D-621 to 431:10D-626	2010 Model	
Idaho **UPDATED 11/10/21**	Enacted Insurance Legislation: H. 79 (2021)	2020 Model	**Effective date:** 7/1/21 No problematic variations from 2020 Model **Recordkeeping Period:** Five Years after the end of the natural life of the contract **Safe Harbor Eligibility:** Federal-registered firms and advisors only **Additional Guidance:** See Bulletin No. 21-05, which adopts the Appendices to the 2020 Model.
Illinois	Ill. Admin. Code tit. 50, §§ 3120.10 to 3120.80	2010 Model	
Indiana	760 IAC 1-72-1 to 1-72-6 (see pp. 314-318)	2006 Model	**Substantive Variation from 2006 Model:** ○ Regulation does not include definition of "replacement"

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	Training Requirements: Indiana Code 27-1-15.6-19.5 and Indiana Code 27-1-15.7-5	2010 Model	**Substantive Variation from 2010 Model:** ○ Reciprocity: "Non-resident producers whose resident licenses are from states with annuity licensing requirements substantially similar to Indiana's do not have to take an additional four-hour training course to sell, solicit or negotiate annuities in Indiana. Non-resident producers whose resident licenses are from states without annuity licensing requirements substantially similar to Indiana's must take a course approved by Indiana or a state with substantially similar annuity licensing requirements." **Additional Guidance:** See Indiana Department of Insurance Bulletin 184 for Insurance Department guidance on producer training requirements.
Iowa **UPDATED 3/16/21**	Adopted Insurance Regulation: Iowa Admin. Code r. 191-15.72 to 191-15.78	2020 Model	**Effective date:** 1/1/2021 No problematic variations from 2020 Model **Recordkeeping Period:** Ten Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only **Additional Guidance:** See Bulletin 20-12 (issued on 10/14/20) for guidance regarding producer training requirements and Bulletin 21-01 (issued on 1/4/21) for general guidance regarding implementation and interpretation. Also see Iowa Insurance Bulletin 11-4 and Iowa Securities Bulletin 11-S-1 for Insurance Department guidance on distinction between insurance advice and securities advice.
	Proposed Securities Regulation: Iowa Admin. Code r. 191-50.104 (see item 9 on pp. 25-29)	N/A	Would impose obligations similar in nature to SEC Regulation Best Interest, with addition of requirement to inform investors of the basis for each recommendation. IRI provided written comments and verbal testimony expressing concern about this proposal, and requested that Iowa amend the proposal to include a safe harbor for federally regulated broker-dealers and registered representatives acting in compliance with Reg BI. Due to the COVID-19 pandemic, the Division has delayed consideration of this proposal.
Kansas	Kansas Insurance Department's Policy and Procedure Regarding Suitability in Annuity Transactions	2010 Model	

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Kentucky **UPDATED 11/10/21**	806 Ky. Admin. Regs. 12:120 Training Requirements: 806 Ky. Admin. Regs. 9:025	2010 Model	
	Adopted Insurance Regulation (revised): 806 Ky. Admin. Regs. 12:120 Adopted Training Requirements: 806 Ky. Admin. Regs. 9:025	2020 Model	**Effective date:** 01/04/2022 Please note that within the training requirements regulation the six-month grace period for existing producers runs from 01/01/2022. **Substantive Variations from 2020 Model:** ○ Omits important elements of the definitions of "producer," and "non-cash compensation," in 2020 Model Section 5 ○ Omits important elements of the provisions clarifying the nature of producers' care obligation in 2020 Model Section 6A(1)(c) ○ Omits important elements of the producer training provision in 2020 Model Section 7 ○ Omits important elements of the compliance mitigation and penalties provision in 2020 Model Section 8 **Proposed Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors IRI provided written comments and verbal testimony to (a) recommend consistent use of the term "producer" in lieu of references to "agent," "consultant," and "licensee" to avoid confusion, and (b) recommend that the missing language referenced above be added to the final regulation. IRI provided supplemental written comments opposing removal of the phrase "best interest" from the proposal. **Latest Status Update:** The Kentucky Department of Insurance revised the proposal to reinsert references to the term "best interest." The proposed amendments were reviewed and amended by the Administrative Regulation Review Subcommittee on 09/14/2021 and were be referred to the Interim Joint Banking & Insurance Committee on 10/06/2021. If a committee of jurisdiction does not hear a regulation, then the referred regulations become effective 90 days from the referral date. These two regulations were not heard by the Banking & Insurance Committee after they were referred on 10/06/2021, so the regulations become effective on 01/04/2022. The Department indicated in conversations with ACLI that the effective date will not be extended, but the Department will consider licensees' compliance efforts when implementing Section 5(3) of the amended regulation.

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Louisiana	La. Admin. Code §§ 37:11701 to 37:11719 (Regulation 89)	2010 Model	Includes 2015 revisions
	Training Requirements: La. Rev. Stat. § 22:1576	2010 Model	**Additional Guidance:** See Annuity Training Requirements for Producers for Insurance Department guidance on producer training requirements.
Maine **UPDATED 6/23/21**	Me. Code R. § 02-031, Ch. 917	2010 Model	
	Adopted Insurance Regulation: Me. Code R. § 02-031, Ch. 917	2020 Model	**Effective date:** 1/1/2022 No problematic variations from 2020 Model **Recordkeeping Period:** Three Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only
Maryland **UPDATED 08/20/21**	Md. Code Regs. §§ 31.09.12.01 to 31.09.12.09	2010 Model	**Additional Guidance:** See Bulletin 11-28 for Insurance Department guidance on producer training requirements.
	Proposed Insurance Regulation: Md. Code Regs. §§ 31.09.12.01 to 31.09.12.13	2020 Model	**Proposed Effective date:** Not specified **Substantive Variations from 2020 Model:** ○ Section 31.09.12.02 does not conform to Section 2 of the 2020 Model. ○ Section 31.09.12.09 omits language in Section 8.B and C of the 2020 Model that (a) provides for reduction or elimination of penalties if corrective action is taken promptly after discovery of a violation and is not part of a pattern or practice, and (b) reserves authority to enforce compliance exclusively with the commissioner. **Proposed Recordkeeping Period:** Seven Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only **Latest Status Update:** IRI provided written comments in support of the proposal, with recommendations to (a) conform the “Scope,” “Safe Harbor,” and “Compliance and Penalties” sections to the Model, and (b) provide a six month implementation period.
Massachusetts	Insurance Regulation: 211 Mass. Code Regs. 96.00	2010 Model	**Substantive Variation from 2010 Model:** ○ Definition of “Suitability Information”: Includes an added provision for “Existing policies or contracts previously sold by the same producer to the same consumer.”
	Adopted Securities Regulation: 950 Mass. Code Regs. 12.207	N/A	**Effective Date:** 3/6/20, with compliance required as of 9/1/20. Imposes fiduciary duty on broker-dealers and agents:

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			○ when providing investment advice or recommending an investment strategy, the opening or transferring of assets to any type of account, or the purchase, sale, or exchange of any security, and ○ when the broker-dealer or agent has or exercises investment discretion or is subject to a contractual fiduciary duty or a contractual obligation to provide ongoing monitoring. Activities outside scope of fiduciary rule remain subject to suitability standard. Requires broker-dealers and agents to adhere to duties of utmost care and loyalty: ○ Duty of Care requires broker-dealers and agents to: ▪ Use care, skill, prudence, and diligence that person in like capacity and familiar with such matters would use based on all relevant facts and circumstances; and ▪ Make reasonable inquiry into (i) risks, costs, and conflicts associated with their recommendations and advice, (ii) customer's investment objectives, risk tolerance, financial situation, and needs, and (iii) other relevant information. ○ Duty of Loyalty requires broker-dealers and agents to: ▪ Disclose material conflicts of interest, and make all reasonably practicable efforts to avoid conflicts, eliminate those that cannot reasonably be avoided, and mitigate those that cannot reasonably be avoided or eliminated; and ▪ Make recommendations and provide advice without regard to the financial or other interest of any party other than the customer. ○ Recommendations made in connection with any sales contest will be presumed to constitute a breach of the duty of loyalty. Does not expressly apply to annuity recommendations, though Securities Division has historically (a) treated variable annuities as "securities" under state law, and (b) exerted jurisdiction over annuity purchases funded through recommended sales of securities. **Additional Guidance:** See FAQs for guidance on questions pertaining to the regulation.

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Michigan **UPDATED 5/7/21**	Enacted Insurance Legislation: H.B. 4508 (2020) (amending Mich. Stat. Ann. § 500.4151 to 500.4166) (see pp. 6-13)	2020 Model	**Effective date:** 6/29/21 No problematic variations from 2020 Model **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only **Additional Guidance:** See Bulletin 2021-19-INS and FAQs for guidance on producer training. The Michigan Department of Insurance and Financial Services (DIFS) issued guidance stating that courses must be approved on or after June 29, 2021 to meet the training requirement. **Additional Guidance:** See Annuity Suitability Training FAQs for guidance on producer training requirements.
Minnesota	Minn. Stat. § §72A.203 to 2036	2010 Model	**Substantive Variations from 2010 Model:** ○ Consumer Information to be Obtained: Information about reverse mortgages added to definition of "suitability information." ○ Insurer Supervision: Requires elevated review of all transactions involving seniors. ○ Suitability Standard: Requires reasonable basis to believe that consumer would receive a "tangible net benefit" from the transaction. Requires longer look-back period (60 months) with respect to exchanges and replacements. Does not include exceptions for transactions where no recommendation is made or where the consumer decides to enter into a transaction that is not based on a recommendation. ○ FINRA Safe Harbor: Does not expressly apply to sales of fixed and variable annuities.
Mississippi **UPDATED 11/18/21**	19 Miss. Admin. Code, Part 2, Chapter 18	2010 Model	
	Adopted Insurance Regulation: 19 Miss. Admin. Code, Part 2, Chapter 18	2020 Model	**Effective date:** 1/1/21, compliance required by 7/1/21 No problematic variations from 2020 Model **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only
Missouri	20 Mo. Code Regs. Ann. tit. 20 §§ 700-1.146 to 700-1.148	2006 Model	

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Montana **UPDATED 11/10/21**	Mont. Code Ann. §33-20-8 HB 0145	2010 Model	**Substantive Variations from 2010 Model:** ○ "Annuity" is defined as fixed.
	Enacted Insurance Legislation: SB 363 (2021) Adopted Implementing Regulations: Administrative Rules of Montana 6.6.810 to 6.6.814	2020 Model	**Effective date:** October 1, 2021 (pursuant to applicable Montana law) **Substantive variations from 2020 Model:** ○ Variable annuities are not covered by this legislation (consistent with previous iteration) ○ Requires delivery of basis for recommendation to consumer in writing (see §33-20-805(1)(a)(4)) ○ Provides more detailed information about types of conduct that would trigger requirement to obtain securities license (see § 33-20-805(3)) **Proposed Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors **Additional Rules:** Through formal rulemaking, Montana's Commissioner of Insurance and Securities adopted the appendices to the 2020 Model and rules relating to implementation of the training requirements. IRI submitted written comments in support of the proposal. **Additional Guidance:** See Informational Bulletin (issued on 10/06/21) for guidance regarding producer training requirements.
Nebraska **UPDATED 11/10/21**	Neb. Rev. Stat. §§ 44-8101 to 44-8109	2010 Model	
	Enacted Insurance Legislation: LB22 (2021)	2020 Model	**Effective date:** 1/1/2022 (see § 7) No problematic variations from 2020 Model, but does not include minor revisions made to training provision in 2015 **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only **Additional Guidance:** The Nebraska Department of Insurance adopted forms for use in compliance with the disclosure obligations that are consistent with the Appendices to the 2020 Model. The forms can be accessed here: Appendix A, Appendix B, and Appendix C. See Bulletin CB-128 (issued on 10/8/21) for guidance regarding producer training requirements.

JURISDICTION	CITATION	BASED ON	NOTES
Nevada **UPDATED 4/29/21**	Insurance Regulation: Nev. Admin. Code §§ 688A.400 to 688A.465	2010 Model	
	Proposed Insurance Regulation: LCB File No. R152-20I	2020 Model	IRI staff spoke with Jeremey Gladstone, Assistant Chief of Life & Health for the Nevada Division of Insurance on 9/30/20 and learned that the proposal is a "refile" of the 2018 regulatory proposal, and therefore does not track the 2020 Model. IRI offered informal comments explaining why the Division should set the current proposal aside and instead pursue uniform adoption of the 2020 Model. A revised proposal is being developed, though Mr. Gladstone could not commit to tracking the 2020 Model in its entirety. A public comment period will be opened, and a workshop scheduled, upon publication of the revised proposal. **Latest Status Update:** The Nevada Division of Insurance is reportedly planning to issue a proposal in the Summer of 2021 that would not use the term "best interest" though the operative provisions may be otherwise consistent with the 2020 Model. IRI and other industry groups provided written comments in opposition to this reported plan.
	Enacted Securities Legislation: SB 383 (2017) Proposed Securities Regulation: Nev. Admin. Code §§ 90.	N/A	Legislation removed broker-dealer exception from statutory application of fiduciary status to "financial planners." Proposed regulation purports to specify acts, practices and courses of business that violate the fiduciary duty and those that are excluded. IRI provided written comments on the proposal in March 2019, expressing concerns about the overly broad and ill-defined fiduciary duty that would be imposed on an overly expansive universe of financial professionals under the proposal.
New Hampshire	N.H. Code Admin. R. Ann. Ins. 305	2010 Model	**Additional Guidance:** See Bulletin INS-14-036-AB for Insurance Department guidance on producer training requirements.

<table>
<tr><th>JURISDICTION</th><th>CITATION</th><th>BASED ON</th><th>NOTES</th></tr>
<tr><td rowspan="2">New Jersey</td><td>Insurance Regulation:
N.J. Admin Code tit. 11, § 4-59A.4; §§ 17B:25-38</td><td>2010 Model</td><td>Additional Guidance: See Bulletin No. 13-01 for Insurance Department guidance on producer training requirements.</td></tr>
<tr><td>Proposed Securities Regulation:
51 N.J.R. 493(a)</td><td>N/A</td><td>Imposes fiduciary duty on broker-dealers and agents when providing investment advice or recommending an investment strategy, the opening or transferring of assets to any type of account, or the purchase, sale, or exchange of any security.
○ Fiduciary duty extends through execution of the recommendation and will not be deemed an ongoing obligation unless the broker-dealer or agent also provides, in any capacity, investment advice to the customer.
○ Fiduciary duty also imposed on advisers with discretionary authority over a customer's account or subject to a contractual fiduciary duty
Requires broker-dealers, agents, and advisers to adhere to duties of care and loyalty:
○ Duty of Care requires broker-dealers, agents, and advisers to:
▪ Use care, skill, prudence, and diligence that person in like capacity and familiar with such matters would use based on all relevant facts and circumstances; and
▪ Make reasonable inquiry into (i) risks, costs, and conflicts associated with their recommendations and advice, (ii) customer’s investment objectives, risk tolerance, financial situation, and needs, and (iii) other relevant information.
○ Duty of Loyalty requires broker-dealers, agents, and advisers to make recommendations and provide advice without regard to the financial or other interest of the broker-dealer, agent, or any other party.
▪ Duty of Loyalty will be presumed to be breached if the broker-dealer, agent, or adviser offers or receives direct or indirect compensation for recommending the opening of, or transfer of assets to a specific type of account, or the purchase, sale, or exchange of a specific security that is not the best of the reasonably available options
○ The fiduciary duty will not be deemed to be breached when the broker-dealer or agent receives a transaction-based fee, provided that the fee is reasonable and is the best of the reasonably available fee options and the duty of care is satisfied.
Executive Order No. 127 extended the deadline for action on this proposal until 90 days after he declares an end to the public health emergency related to the COVID-19 pandemic.</td></tr>
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JURISDICTION	CITATION	BASED ON	NOTES
New Mexico **UPDATED 11/10/2021**	Proposed Insurance Regulation: 13.9 NMAC – Part 20	2020 Model	**Proposed Effective date:** 01/01/2022 **Substantive Variations from 2020 Model:** Omits provision that states there is no private cause of action. **Proposed Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors **Latest Status Update:** IRI provided written comments in support of the proposal, with recommendations to make some technical changes for clarity and uniformity with the NAIC Model, to add the provision stating there is no private cause of action, and to request that the proposed amendments take effect no earlier than six (6) months following the date of adoption.
New York **UPDATED 6/9/21**	Adopted Insurance Regulation: N.Y. Comp. Codes R. & Regs. tit. 11, § 224 (First Amendment to Regulation 187)	N/A	Imposes a best interest standard for recommendations of new sales and in-force transactions involving life insurance and annuities, as well as recommendations to refrain from entering a transaction. Insurers remain responsible for oversight of producers' suitability determinations but are not charged with supervising best interest determinations. See IRI's Implementation Q&A Guide and Implementation Flow Chart on Regulation 187. **Recordkeeping Period**: See Insurance Regulation 152 **Latest Status Update:** On 4/29/21, the Appellate Division of the New York State Supreme Court, Third Department, has struck down this regulation for being unconstitutionally vague. The decision has been appealed to the state's highest court, the Court of Appeals. By operation of law, the Appellate Division ruling was automatically stayed when the appeal was filed, meaning the regulation will stay in effect pending the outcome of the appeal.
North Carolina	N.C. Gen. Stat. §§ 58-60-150 to 58-60-180 (see Part 4 on p. 11)	2006 Model	State regulation requires suitability questionnaire as part of product filing (11 N.C. Admin. Code 12 .0420).
	N.D. Cent. Code § 26.1-34.2-01 to 26.1-34.2-05	2010 Model	

JURISDICTION	CITATION	BASED ON	NOTES
North Dakota **UPDATED 11/10/2021**	Enacted Insurance Legislation: HB 1160 (2021)	2020 Model	**Effective date**: 1/1/22 No problematic variations from 2020 Model, but the one-credit producer training option will not be available after 06/30/2022. Existing producers must complete required training by 06/30/2022. Additionally, North Dakota is not activating the new courses until 1/1/2022, so existing producers should wait until on or after 01/01/2022 to take the training. **Recordkeeping Period:** Ten Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors
Ohio **UPDATED 11/10/21**	Adopted Insurance Regulation: Ohio Admin. Code 3901:6-13 Appendices A-C	2020 Model	**Effective date:** 2/14/21, compliance required by 8/14/21 No problematic variations from 2020 Model, but the one-credit producer training option will not be available after 08/14/2021. Existing producers must complete required training by 08/14/2021. **Recordkeeping Period:** Eight Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only **Additional Guidance:** The Ohio Insurance Department has informed IRI that producers who obtain their life line of authority on or after 2/14/21 will be required to complete the training before selling annuities while producers who already had their life line of authority as of that date will have until 8/14/21 to complete the training. See the Annuity Suitability (Best Interest) FAQs for additional guidance on producer training.
Oklahoma	Okla. Admin. Code § 365:25-17	2006 Model	Training requirements enacted in separate regulation.
	Training requirements: Okla. Admin. Code § 365:25-3-21	2010 Model	**Substantive Variation from 2010 Model:** ○ CE Credit: The required training course may be "used as part of the producer's required continuing education hours." **Additional Guidance:** See Annuity Training Clarification for Insurance Department guidance on producer training requirements
Oregon	Or. Admin. R. 836-080-0170 to 836-080-0193	2010 Model	
	40 Pa. Stat. Ann. § 627-1 to 627-7	2006 Model	

JURISDICTION	CITATION	BASED ON	NOTES
Pennsylvania **UPDATED 11/10/21**	Proposed Insurance Legislation: SB 772 (2021)	2020 Model	**Proposed Effective Date**: 180 days after enactment **Substantive Variations from 2020 Model:** ○ Omits provision that states there is no private right of action ○ New producers have until end of first license period to complete training requirements ○ Omits Section 7(b)(10) from the Model **Proposed Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal-registered firms and advisors only **Latest Status Update:** IRI will submit written comments in support of the proposal, with a recommendation that the proposal be amended to address the variations noted above. On 10/04/2021, the House Insurance Committee amended and passed the bill, and on 11/10/21, the House unanimously passed the bill. Senate concurrence is expected after Thanksgiving, which means the bill will likely be enacted before the end of 2021.
Rhode Island **UPDATED 3/31/21**	Adopted Insurance Regulation: 230 R.I. Code R. 20-25-1	2020 Model	**Effective Date**: 4/1/2021 No problematic variations from 2020 Model **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors **Additional Guidance:** See Bulletin 2021-1 (issued on 2/15/21) for guidance on producer training requirements (replaces Bulletin 2011-2), and Bulletin 2021-2 (issued on 2/15/21) for the official adoption of the disclosure forms included in the Appendices to the 2020 Model **Latest Status Update:** The Rhode Island Insurance Department currently interprets the regulation as discontinuing the one hour training course option for existing producers after 9/30/21, but is considering whether to allow the one hour option to remain available beyond that date. IRI has informally communicated support for this change.
South Carolina	S.C. Code Ann. Regs. 69-29	2010 Model	

JURISDICTION	CITATION	BASED ON	NOTES
UPDATED 11/10/2021	Proposed Insurance Regulation: S.C. Code Ann. Regs. 69-29	2020 Model	**Effective Date**: Six months following final publication in the State Register **Substantive Variations from 2020 Model:** ○ Section II. Scope does not conform to Section 2 of the 2020 Model. ○ Omits Section 6.A.(5) of the 2020 Model (the "application of the best interest obligation" provision). ○ Subsection B.(3)(c) of Section VI. Producer Training does not conform to Section 7.B.(3)(c) of the 2020 Model. **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors **Latest Status Update:** IRI provided written comments in support of the proposal, with recommendations to (a) conform the "Scope," and "Producer Training sections to the Model, and (b) to add the "application of the best interest obligation provision."
South Dakota	S.D. Codified Laws §§ 58-33A-13 to 58-33A-27	2010 Model	
Tennessee	Tenn. Comp. R. & Regs. § 0780-01-86	2010 Model	Includes 2015 revisions **Additional Guidance:** See Bulletin dated May 22, 2013 for Insurance Department guidance on distinction between insurance advice and securities advice.
Texas **UPDATED 11/10/21**	Tex. Ins. Code Ann. § 1115	2010 Model	**Substantive Variations from 2010 Model:** ○ One-time Training Requirement: Resident agents must also complete 8 hours of CE biennially specifically relating to annuities, which "may be used to satisfy the continuing education requirements…and is not in addition to [those] requirements." ○ Reciprocity: Applies only to courses taken AFTER 9/1/11 in one of the following states: AK, CO, CT, DC, IA, IL, IN, KY, MD, ND, OH, OK, OR, RI, SC, WA, WI, and WV. **Additional Guidance:** See Annuity Certification Training for Insurance Department guidance on producer training requirements.

JURISDICTION	CITATION	BASED ON	NOTES
	Enacted Insurance Legislation: HB 1777 (2021) Adopted Implementing Regulations: Tex. Admin. Code §3.9721 and §3.9722	2020 Model	**Effective Date:** 9/1/2021 (1/1/2022 for training requirements) **Substantive Variation from 2020 Model:** ○ No grace period provided for existing producers to complete training requirements **Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors **Additional Guidance:** The Texas Department of Insurance has adopted new rules that adopt the Appendices to the 2020 Model. The rules specify that use of the 2020 Model disclosure forms meet Texas' requirements, but Texas will also make its own forms available to satisfy the disclosure requirements (FIN194, FIN195, FIN196). IRI will provide written comments in support of the proposal unless significant concerns are brought to our attention. See Annuity Certification Courses for Insurance Department guidance on producer training requirements, which indicates that reciprocity is available for non-resident agents.
Utah	Utah Admin. Code r. 590-230-1 to 590-230-9	2010 Model	**Substantive Variation from 2010 Model:** ○ Training provision does not track Model: ▪ Requires that producers have adequate knowledge of the product to recommend the annuity and comply with the insurer's standards for product training. ▪ No specific hourly requirements have been instituted. ▪ No reciprocity provision is included in the regulation.
Vermont **UPDATED 3/31/21**	Vt. Stat. Ann., tit. 8 § 4724(16)	Not based on Model	Prohibits soliciting, selling, or issuing an insurance policy when the person soliciting, selling, or issuing the policy has reason to know or should have reason to know that it is unsuitable for the person purchasing it. **Additional Guidance:** See Joint Bulletin of the Insurance & Securities Divisions dated January 8, 2018 for guidance on distinction between insurance advice and securities advice.
	Insurance Bulletin 129 - Suitability Requirements for Variable Insurance Products		Applies only to variable annuities. References the "suitability and ethical sales practices requirements applicable to registered securities representatives under the Vermont Securities Act (Chapter 131 of Title 9)."
	Va. Admin. Code §§ 5-45-10 to 5-45-50	2010 Model	

JURISDICTION	CITATION	BASED ON	NOTES
Virginia **UPDATED 11/10/21**	Adopted Insurance Regulation: Va. Admin. Code §§ 5-45-10 to 5-45-47	2020 Model	**Effective date:** 9/1/2021 No problematic variations from 2020 Model, but the one-credit producer training option will not be available after 03/01/2022. **Proposed Recordkeeping Period:** Five Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors
Washington	Wash Admin Code § 284-23-390 Training requirements: Wash Admin Code § 284-17-265	2010 Model	
West Virginia	W. Va. Code R. §§ 114-11B-1 to 114-11B-8	2010 Model	
Wisconsin **UPDATED 11/10/21**	Wis. Stat § 628.347	2010 Model	Includes 2015 revisions **Additional Guidance:** See Annuity Training for Insurance Department guidance on producer training requirements.
	Proposed Insurance Legislation: 2021 SB 644	2020 Model	**Effective Date:** The first day of the 6th month beginning after publication **Substantive Variation from 2020 Model:** Includes the following provision, "If consumer profile information is obtained by an insurance intermediary, the insurance intermediary may not conceal the information from the insurer, and an insurance intermediary may not otherwise dissuade or attempt to dissuade the consumer from providing the information." **Recordkeeping Period:** Six Years **Safe Harbor Eligibility:** Federal- and state-registered firms and advisors
Wyoming	Wyo. Ins. Dept. Regs. Ch. 64	2010 Model	Includes 2015 revisions

Appendix A

KEY DATES FOR PRODUCER TRAINING REQUIREMENTS UNDER THE 2020 MODEL

State	Existing Producers Licensed Before:	Must Complete Training By:	New Producers Must Complete Training Before Selling Annuities if Licensed On or After:	Expiration of 1 Credit Option
Alabama	1/1/2022	7/1/2022	1/1/2022	6/30/2022
Arizona	1/1/2021	6/30/2021	1/1/2021	7/1/2021
Arkansas	1/1/2021	1/1/2022	1/1/2022	
Connecticut	3/1/2022	9/1/2022	3/1/2022	
Delaware	8/1/2021	2/1/2022	8/1/2021	2/1/2022
Idaho	7/1/2021	2/1/2022	7/1/2021	2/1/2022
Iowa	1/1/2021	6/30/2021	1/1/2021	6/30/2021
Kentucky	1/1/2022	07/1/2022	1/1/2022	
Maine	1/1/2022	7/1/2022	1/1/2022	
Michigan[1]	6/29/2021	12/29/2021	6/29/2021	12/29/2021
Mississippi	1/1/2022	7/2/2022	1/1/2022	
Montana	10/2/2021	4/1/2022	10/2/2021	
Nebraska	7/1/2021	12/31/2021	7/1/2021	
North Dakota	1/1/2022	7/1/2022	1/1/2022	6/30/2022
Ohio	2/14/2021	8/14/2021	2/14/2021	8/14/2021
Rhode Island	4/1/2021	9/30/2021	4/1/2021	9/30/2021
Texas	1/1/2022	1/1/2022	1/1/2022	
Virginia	9/1/2021	3/1/2022	9/1/2021	3/1/2022

[1] The Michigan Department of Insurance and Financial Services (DIFS) issued guidance in May 2021 stating that courses must be approved on or after June 29, 2021 to meet the training requirement.

Appendix B

KEY PROVISIONS IN PRIOR VERSIONS OF THE NAIC MODEL

	2010/2015 MODEL	2003 / 2006 MODEL
Purpose	To require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.	To set forth standards and procedures for recommendations to consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.
Scope and Exemptions	Applies to recommendations made to any consumer. Does not apply to transactions involving direct response solicitations or contracts used to fund employer-sponsored plans.	2003 Model applies to recommendations made to seniors (age 65 and up). 2006 Model applies to recommendations made to all consumers. Does not apply to transactions involving direct response solicitations or employer-sponsored plans.
Consumer Information to be Obtained	A producer, or an insurer where no producer is involved, must make reasonable efforts to obtain consumer's suitability information. "Suitability information" means information that is reasonably appropriate to determine the suitability of a recommendation, including: age, annual income, financial situation and needs (including financial resources used for funding the annuity), financial experience, financial objectives, intended use of the annuity, financial time horizon, existing assets (including investment and life insurance holdings), liquidity needs, liquid net worth, risk tolerance, and tax status. If applicable, producers must obtain customer signed statements: 3. documenting the customer's refusal to provide suitability information; and	A producer, or an insurer where no producer is involved, must make reasonable efforts to obtain information about consumer's financial status, tax status, and investment objectives, and any other information used or considered to be reasonable by the producer.

	2010/2015 MODEL	2003 / 2006 MODEL
	4. acknowledging that an annuity transaction is not recommended if the customer decides to enter into an annuity transaction that the producer did not recommend.	
Applicable Standard	A producer, or an insurer where no producer is involved, must have reasonable grounds for believing that the recommendation is suitable for the consumer and that there is a reasonable basis to believe: 1. the consumer has been reasonably informed of various features of the annuity; 2. the consumer would benefit from certain features of the annuity; 3. the particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity; and 4. in the case of an exchange or replacement of an annuity, the exchange or replacement is suitable, taking into consideration whether: a. the consumer will incur a surrender charge, be subject to a new surrender period, lose existing benefits, or be subject to increased fees or charges for riders or similar product enhancements; b. the consumer would benefit from product enhancements and improvements; and c. the consumer had another annuity exchange or replacement, particularly within the prior 36 months. An insurer may not issue a recommended annuity unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information. An insurer's issuance of an annuity must be reasonable under all the circumstances actually known to the insurer.	A producer, or an insurer where no producer is involved, must have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer. A producer's or insurer's recommendation of an annuity must be reasonable under all the circumstances actually known to the producer or insurer.

	2010/2015 MODEL	2003 / 2006 MODEL
Exceptions to Application of the Applicable Standard	An insurer or producer will have no obligation to a consumer related to an annuity transaction if: 5. no recommendation is made; 6. a recommendation was made and later found to have been based on inaccurate material information provided by the consumer; 7. the consumer refuses to provide relevant suitability information and the transaction is not recommended; or 8. the consumer enters a transaction that was not recommended.	An insurer or producer will have no obligation to a consumer related to any recommendation if the consumer: 1. refuses to provide relevant information requested by the insurer or insurance producer; 2. decides to enter into a transaction that is not recommended; or 3. fails to provide complete or accurate information.
Insurer Responsibilities / Supervision	Insurers must establish a supervision system reasonably designed to achieve compliance with the regulation, including: 1. maintaining procedures to inform producers of the requirements of the regulation and incorporating those requirements into relevant producer training manuals; 2. establishing standards for producer product training and maintaining procedures to require compliance with the applicable training requirements; 3. providing product-specific training and training materials that explain the material features of the insurer's annuity products to its producers; 4. maintaining procedures for pre-issuance review of each recommendation to ensure that there is a reasonable basis to determine that a recommendation is suitable; 5. maintaining procedures to detect unsuitable recommendations; and 6. providing an annual report to senior management detailing a review with appropriate testing designed to assist in determining the effectiveness of the supervision system, the exceptions found, and the corrective action taken or recommended, if any.	Insurers must assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this regulation is established and maintained, or must establish and maintain such a system, including, but not limited to: 1. maintaining written procedures; and 2. conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this chapter. General agents and independent agencies must either adopt a system established by an insurer to supervise recommendations of its producers that is reasonably designed to achieve compliance with this regulation, or must establish and maintain such a system, including, but not limited to: 1. maintaining written procedures; and 2. conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this chapter.

	2010/2015 MODEL	2003 / 2006 MODEL
Third Party Performance of Supervision Functions	An insurer may contract with a third party to perform any of the insurer's required supervision functions, including maintenance of procedures. An insurer is responsible for taking appropriate corrective action to ensure that the supervision system is maintained and properly performed. An insurer's supervision system must include supervision of the contractual performance of a third party by: 3. monitoring and conducting audits as appropriate to assure that the contracted function is properly performed; and 4. annually obtaining written certification from a senior manager with responsibility for the contracted function that represents that the manager has a reasonable basis to represent, and does represent, that the contracted function is properly performed. Insurers are not required to include in their supervision system a producer's recommendation to a consumer of products other than the annuity products offered by the insurer.	An insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision with respect to producers under contract with or employed by the third party. An insurer must make reasonable inquiry to assure that the third party is performing the required functions and must take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by: 1. obtaining an annual certification from a third-party senior manager with responsibility for the delegated functions that the third party is performing the required functions; and 2. based on reasonable selection criteria, periodically selecting third parties for a review to determine whether they are performing the required functions. An insurer that contracts with a third party and complies with the requirements to supervise will have fulfilled its responsibilities. A general agent or independent agency contracting with an insurer must promptly provide the certification referenced above when requested by the insurer or give a clear statement that it is unable to meet the certification criteria. Insurers are not required to (1) review, or provide for review of, all producer solicited transactions; or (2) include in the system of supervision a producer's recommendations to consumers of products other than the annuities offered by the insurer.
Prohibited Acts	Producers may not dissuade or attempt to dissuade consumer from truthfully responding to an insurer's request for confirmation of suitability information, filing a complaint, or cooperating with the investigation of a complaint.	None specified.

	2010/2015 MODEL	2003 / 2006 MODEL
Records and Recordkeeping	A producer, or an insurer where no producer is involved, must make a record of any recommendation. Insurers, general agents, independent agencies and producers must maintain or make available to the insurance commissioner records of the information collected from the consumer and other information used in making recommendations that were the basis for insurance transactions for a particular number of years (to be set by each state) after the transaction. Insurers may, but are not required, to maintain this documentation for producers.	Insurers, general agents, independent agencies and producers must maintain or make available to the insurance commissioner records of the information collected from the consumer and other information used in making recommendations that were the basis for insurance transactions for a particular number of years (to be set by each state) after the transaction. Insurers may, but are not required to maintain this documentation for producers.
Safe Harbor	Applies to sales of variable or fixed annuities made by FINRA member broker-dealers in compliance with FINRA suitability and supervision requirements. The insurer must: 4. monitor the B-D using information collected in the normal course of business; and 5. provide the B-D information and reports reasonably appropriate to assist the B-D to maintain its supervision system. *2015 Amendment: Expanded scope of safe harbor to cover all annuities (i.e. not limited to variable or fixed annuities).*	Applies to sales of variable annuities made in compliance with the NASD Conduct Rules pertaining to suitability will satisfy the regulation.
Producer Training Requirements	<u>Product-Specific Training Requirement</u>. A producer may not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and comply with the insurer's product training standards. A producer can rely on insurer-provided product-specific training standards and materials to meet this requirement. <u>One-Time Training Requirement</u>. A producer who engages in the sale of annuity products must complete a one-time four (4) credit training course that is approved by the department of insurance, provided by a department of insurance-approved training provider, and sufficient to qualify for at least four (4) CE credits.	None

	2010/2015 MODEL	2003 / 2006 MODEL
	<u>Content of Required One-Time Training</u>. The required one-time training course must include information on (a) the types and various classifications of annuities, (b) identification of the parties to an annuity, (c) how fixed, variable and indexed annuity contract provisions affect consumers, (d) the application of income taxation to qualified and non-qualified annuities, (e) the primary uses of annuities, and (f) appropriate sales practices, replacement and disclosure requirements. *2015 Modification: Revised item (c) to read "how product-specific annuity contract features affect consumers."* <u>Compliance Dates</u>. A producer who holds a life insurance line of authority on the effective date of the regulation must complete the required one-time training within six (6) months of the effective date. A producer who obtains a life insurance line of authority on or after the effective date must complete the required training before engaging in the sale of annuities. <u>Reciprocity</u>. Satisfaction of training requirements of another state that are substantially similar to those described above will satisfy the one-time training requirements in this state. <u>Insurer Verification</u>. An insurer must verify that a producer has completed the required one-time training before allowing the producer to sell the insurer's annuity. An insurer can satisfy this responsibility by obtaining certificates of completion of the training course, or by obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.	

	2010/2015 MODEL	2003 / 2006 MODEL
Penalties and Enforcement	Insurers are responsible for compliance. The Commissioner may order reasonably appropriate corrective action by: 1. An insurer for any consumer harmed by a violation of the regulation by the insurer or producer. 2. A general agency, independent agency or producer for any consumer harmed by a violation of the regulation by the producer.	A violation may be deemed to be an unfair method of competition or an unfair or deceptive act and practice. The Commissioner may order reasonably appropriate corrective action by: 1. An insurer for any consumer harmed a violation of the regulation by the insurer or producer. 2. A producer for any consumer harmed by a violation of the regulation by the producer. 3. A general agency or independent agency that employs or contracts with a producer to sell or solicit the sale of annuities for any consumer harmed by a violation of the regulation by the producer.
Mitigation of Penalties	Penalties for violations may be reduced or eliminated if corrective action for the consumer was promptly taken after a violation was discovered or the violation was not part of a pattern or practice	Penalties for violations may be reduced or eliminated if corrective action for the consumer was promptly taken after a violation was discovered