

## Draft Pending Adoption

Draft: 8/21/24

Life Insurance and Annuities (A) Committee  
Chicago, Illinois  
August 15, 2024

The Life Insurance and Annuities (A) Committee met in Chicago, IL, Aug. 15, 2024. The following Committee members participated: Judith L. French, Chair (OH); Doug Ommen, Co-Vice Chair (IA); Carter Lawrence, Co-Vice Chair (TN); Mark Fowler (AL); Barbara D. Richardson (AZ); Karima M. Woods represented by Stephen Flick (DC); Justin Zimmerman (NJ); Adrienne A. Harris represented by Bill Carmello (NY); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); Scott A. White represented by Craig Chupp (VA); and Nathan Houdek (WI). Also participating were: Nour Benchaaboun (MD); Fred Andersen (MN); Eric Dunning (NE); Michael Humphreys (PA); and Rachel Hemphill (TX).

### 1. Adopted its July 15 Minutes

Director French said the Committee met July 15 and took the following action: 1) adopted its 2022 Spring National Meeting minutes; and 2) adopted the 2025 revisions to the *Valuation Manual*.

Commissioner Ommen made a motion, seconded by Commissioner Lawrence, to adopt the Committee's July 15 minutes (Attachment One). The motion passed unanimously.

### 2. Heard a Federal Update

Taylor Walker (NAIC) gave an update on the U.S. Department of Labor's (DOL's) proposed Retirement Security Rule, also known as the fiduciary rule, and amendments to the prohibited transaction exemptions (PTEs), which exempt fiduciaries from what w

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the use of criminal history data in insurance. Commissioner Fowler said recordings of these presentations are posted on the Special (EX) Committee on Race and Insurance's web page on the NAIC website.

Commissioner Fowler said the Life Workstream also met April 25. During this meeting, it heard a presentation from the ACLI on the use of criminal history in life insurance underwriting. The Life Workstream also finalized two work products

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Rock said field-generated presentations are developed by or provided from outside the insurer and are used by an agent or an advisor. Some examples of field-generated presentations include technology vendors to help advisors and customers better compare products and features. Field-generated materials may bring illustrated values to life through visual aids or include other online flexibility to help customers better understand how their choices impact the illustration, such as what happens when one starts taking income at different ages or different distribution amounts. Field-generated materials could also include conceptual materials that discuss how certain life insurance or structures might be used. Agent-generated marketing materials show agents discussing products in their own voice. Rock said insurers may have different rules for reviewing agent-generated marketing materials.

Rock then summarized some of the

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index. Model #245 does not allow the illustration of bespoke indices that have less than 10 years of history. An index must have 10 years of history in order to illustrate it.

Politzer highlighted the disclosure language that Model #245 requires to be presented to consumers: 1) the illustration is hypothetical; 2) the purpose of an illustration is to explain how the contract works; and 3) the illustration is not a promise of performance. These disclosures are critical to the effectiveness of the illustration. Politzer explained that Model #245 requires that certain information must be included in the illustrations. There must be an illustration of the “worst-case scenario” for the consumer, which, for a fixed indexed annuity, shows 0 credits in any year where the index has negative returns. This part of the illustration highlights the minimum guarantees of the contract. The illustration also shows nonguaranteed elements of the contract from the most recent 10 years to show the mechanics of the contract—what happens when the index goes up and when the index goes down. Another prescribed exhibit in the illustration must show the most recent 10 years of performance, the highest 10 years of the last 20 years, and the lowest 10 years of the last 20 years. This makes clear that there is a range of outcomes and illustrates the most logical ones. It is prescribed so that each carrier has to do it the same way. However, only 10 states have adopted the current version of Model #245.

Politzer said, for the most part, illustrations are fairly consistent in the remaining 40 states. He said that there are some deviations in practice, the most common being companies will illustrate more than 10 years of data if it is available. There are companies in the 40 states that also illustrate bespoke indices without 10 years of history. He said that Athene has been discussing that the most recent 10 years and even the most recent 20 years have been a strong set of markets for the S&P 500, which is considered the benchmark index and the index used most commonly in Athene’s products. So, any reliance on that period of data is going to show an optimistic forecast of the contract, as good as any other asset class. Athene has, as a result, added some additional disclosures highlighting that this had been a higher set of years of performance. Athene has been following Model #245 for a long time and has found that illustrations are helpful in promoting annuities and helping customers use them for their retirement needs. He said Athene has received few complaints about illustrations over the years. Ultimately, the performance of Athene’s contracts has been a testament to how well the illustrations have been working.

Politzer reiterated that variable annuities, including registered index-e (6.5 ( s))TJ g (s)TJp(e)-6 ( b(e)-6 (n)-0.7tTt)-6 w(p)2.

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sequence of returns is the reality of what will occur with the policy and what happens when the illustration is not only showing a substantial input of premium but then a substantial extraction of cash value later on, both in withdrawals and loans. He said that one single interest rate does not take a sequence of returns into account. Webbr said his analysis of the numbers in an illustration (by taking and running thousands of scenarios) found in one case as much as a 95% failure rate. He said he would like to work with the L



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#245. He said there is no question that as yields rose, especially over the past three