



December 21, 2023

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

On behalf of the National Association of Insurance Commissioners (NAIC)<sup>1</sup>, we appreciate the opportunity to provide comments on the Department of Labor's (DOL) proposed "Retirement Security Rule: Definition of an Investment Advice Fiduciary" and proposed amendments to the prohibited transaction exemptions (PTEs) (collectively, the "Proposed Rule").

While the NAIC typically refrains from commenting on the rule proposals of fellow regulators unless they are directly preemptive of our authorities, in this instance, we are compelled to respond given the potentially significant impact the Proposed Rule would have on insurance consumers and access to lifetime income products in retirement. We also feel compelled to respond to commentary, used by the Administration to justify the proposal, that disparages the ongoing work of state insurance departments to adopt and enforce comprehensive and consistent standards of care for annuity products.

We are disappointed that the DOL did not engage or coordinate substantively with NAIC members—the chief insurance regulators from the 50 states, the District of Columbia, and the U.S. territories—before promulgating the current Proposed Rule. While the DOL has interacted with NAIC staff and members, those discussions were

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<sup>1</sup> As part of our state-based system of insurance regulation in the United States, the National Association of Insurance Commissioners (NAIC) provides expertise, data, and analysis for insurance commissioners to effectively regulate the industry and protect consumers. The U.S. standard-setting organization is governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. For more information, visit [www.naic.org](http://www.naic.org).







Indeed, bipartisan Congressional efforts, such as the SECURE Act in 2019 and a follow-up effort in 2022, and multip