

4.

The Working Group also extensively discussed whether the model revisions should apply to producers not having direct contact with a consumer, but exercised material control or influence in the making of the recommendation. The Working Group decided to add language applying the model revisions to such producers under certain circumstances. Specifically, in Section 6A(5), the model revisions provide that any requirement applicable to a producer under Section 6—Duties of Insurers and Producers applies 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.

Another issue the Working Group discussed was whether the revised model establishing the new best interest standard of conduct would be considered for purposes of Section 989J of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) a successor to the 2010 model revisions, which established the suitability standard of conduct. The proposed revisions include a drafting note in Section 1—Purpose expressly stating the proposed revisions are a successor to the 2010 model revisions. The Working Group deferred the issue to the NAIC Legal Division for additional research. The NAIC Legal Division did not expressly provide an opinion, but in ij-0.001 Tc 0.123 Tw I ovide (ran)2.on

PROJECT HISTORY - 2015

SUITABILITY IN ANNUITY TRANSACTIONS MODEL REGULATION (#275)

1. Description of the Project, Issues Addressed, etc.

The (#275) was revised to clarify its application to contingent deferred annuities (CDAs) by:

- x Deleting references to variable and fixed and leaving the broader reference to “annuities” in Section 6H, which states that sales made in compliance with Financial Industry Regulatory Authority (FINRA) requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements under this regulation.
- x Adding to Section 7. Producer Training the clarification that training include how **product-specific** annuity contract features affect consumers.

2. ~~pg~~

Financial Advisors (NAIFA); Birny Birnbaum (Center for Economic Justice—CEJ); and the American Academy of Actuaries (Academy).

5. A General Description of the Due Process (e.g., exposure periods, public hearings or any other means by which widespread input from industry, consumers and legislators was solicited)

The Contingent Deferred Annuity (A) Working Group met at each national meeting and held interim meetings and interim conference calls beginning in June 2012 until adopting the revisions at the 2014 Fall National Meeting.

6. A Discussion of the Significant Issues (e.g., items of some controversy raised during the due process and the group's response)

There were concerns that using the term "CDAs" when revising the model would be too limiting and that subsequent model revisions would be necessary to address every innovation in the industry. The language adopted seeks to address this concern by using broader language.

7. Any Other Important Information (e.g., amending an accreditation standard)

None

PROJECT HISTORY - 2006

SENIOR PROTECTION IN ANNUITY TRANSACTIONS
MODEL REGULATION (#275)

1. Description of the project, issues addressed, etc.

This model regulation was amended to expand its suitability protections to consumers of all ages, not just those over the age of 65.

2. Name of group responsible for draft the model:

Life Insurance and Annuities (A) Committee

States Participating:

North Dakota, Chair	Kansas
Kentucky, Vice Chair	Nebraska
Alabama	New Mexico
Arkansas	New York
California	Ohio
Florida	Pennsylvania
Iowa	

3. Project authorized by what charge and date first given to the group:

The following charge was given in 2006:

Review and consider changes to the Senior Protection in Annuity Transactions Model Regulation to address the suitability issue with regard to all annuity transactions.

4. A general description of the drafting process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated.

The model was drafted by the Committee. Numerous interested parties participated, including industry representatives, such as the American Council of Life Insurers (ACLI), The Financial Planning Association (FPA); and the National Association of Independent Life Brokerage Agencies (NAILBA); and funded consumer

7. Any other important information (e.g., amending an accreditation standard).

None.