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August 9, 2021

Ms. Kathleen Birrane, Commissioner
Maryland Insurance Administration
200 St. Paul Place, Suite 2700,
Baltimore, MD 21202

Re: Draft Regulation: 31.09.12

Dear Commissioner Birrane:

These comments are submitted to the Maryland Insurance Administration (the “Administration”) on behalf of the American Council of Life Insurers (“ACLI”) regarding the Administration’s proposed amendments to its Suitability in Annuity Transactions Regulation (“Draft Regulation”). ACLI strongly supports the changes that will provide strong new protections for Marylanders contemplating the purchase of an annuity. ACLI also supports and appreciates that the Draft Regulation very closely tracks the recent best interest amendments to the NAIC Suitability in Annuity Transactions Model Regulation (“NAIC Model”). Our comments support such conformity of the Draft Regulation with the NAIC Model. We appreciate the opportunity to submit these comments.

ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial well-being through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision, and other supplemental benefits.

ACLI remains committed to achieving a harmonized national best interest standard of care for annuities across all regulatory platforms. Consumers must be confident that insurance companies and insurance professionals with whom they are entrusting their retirement savings are acting in their best interest and not putting their own financial interests ahead of consumers’ interests.

Suggested substantive additions to the Draft Regulation:

Section .07 Safe Harbor

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

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So that the Draft Regulation conforms most closely to the NAIC Model, we suggest the language in Subsection F be deleted. ACLI understands that some regulators may be concerned that the “Comparable Standards” concept may be used to avoid oversight by insurance commissioners, but we do believe that the NAIC Model’s is sufficient to avoid that problem.

Section .09 Compliance and Penalties

We respectfully request the insertion of the mitigation language under Section .09 in the Compliance and Penalties section. The mitigation language is critical in that it encourages and rewards good behavior by insurers and producers, alike:

(3) Any applicable penalty under this Section .09 for a violation of this regulation may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a plan or practice.

We also request the insertion of Subsection D, which protects the exclusive authority of the Administration to enforce this regulation:

D. The authority to enforce compliance with this regulation is vested exclusively with the commissioner.

Effective Date

Effective implementation of the significant enhancements embodied in the proposal will require substantial efforts by our member companies operating in Maryland. Past amendments to the NAIC Model have provided six (6) months for implementation after the “adoption date”, and we believe the same time period would be appropriate here. As such, we respectfully request that the proposed amendments take effect no earlier than six (6) months following the date of adoption.

It would also be extremely helpful to our members if a formal “Effective Date” is included as the final Section of the Rule.

Again, we strongly support the Draft Regulation and believe that it will significantly enhance protections for Maryland citizens contemplating the purchase of an annuity. We believe these protections will be further enhanced by the revisions we have recommended to make the Proposed Rule track the NAIC Model to the greatest extent possible.

We appreciate your consideration of our suggested revisions, as always. Please let me know if you have any questions or would like to discuss the proposed amendments.

Sincerely,



Michelle Carroll Foster