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February 28, 2022

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 most recent draft of 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 closely tracks the recent “Best Interest” amendments to the NAIC Suitability in Annuity Transactions Model Regulation (“NAIC Model”). Our comments here support the conformity of the Draft Regulation to the NAIC Model. We appreciate the opportunity to submit these comments. Also, we thank the Administration for the multiple meetings it has provided to the ACLI to address our concerns.

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 .02 Purpose

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

The American Council of Life Insurers (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 wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94 percent of industry assets in the United States.

The Administration has kept its existing regulatory language in Section .02 Scope: A which reads: *"This chapter applies to each recommendation to purchase, exchange, or replace an annuity made to a consumer by a producer, or an insurer if no producer is involved, that results in the purchase, exchange, or replacement recommended."* The updated NAIC Model has rephrased the Purpose language to state: *"This regulation shall apply to any sale or recommendation of an annuity"*.

It appears that the Administration interprets the language in the updated Purpose section of the NAIC Model to only apply to recommendations or sales, not replacement and/or exchanges, of annuities. This ignores the broad language throughout the Draft Regulation which bring in replacement and exchanges:

- The definition of "Recommendation" in .03 (16) states: (a) "Recommendation" means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, an exchange, or a replacement of an annuity in accordance with that advice.
- Section .04 (9) addresses the purchase or exchange of an annuity.
- Section .04 (12) of the draft Rule, in the "Care Obligation", specifically addresses exchanges and replacements of annuities.

We respectfully urge the Administration to align with almost half of the country, 19 states, which have adopted the updated NAIC Model Purpose language.

Section .07 Safe Harbor

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 wording 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

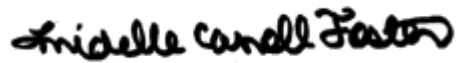
We thank the Administration for providing six (6) months for implementation after the "adoption date" for our member companies to come into compliance with the Draft Regulation. However, it

would be 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,

A handwritten signature in black ink that reads "Michelle Carroll Foster". The signature is written in a cursive, flowing style.

Michelle Carroll Foster