April 27, 2018

The Honorable Dean Cameron
Director, Idaho Department of Insurance
Chairman, NAIC Annuity Suitability (A) Working Group
700 West State Street, 3rd Floor
Boise, Idaho 83720-0043

The Honorable Doug Ommen
Commissioner, Iowa Insurance Division
Vice Chair, NAIC Annuity Suitability (A) Working Group
Two Ruan Center, 601 Locust, 4th Floor
Des Moines, IA 50309-3738

RE: SUITABILITY AND BEST INTEREST STANDARD OF CONDUCT IN ANNUITY TRANSACTIONS MODEL REGULATION

Dear Director Cameron and Commissioner Ommen:

The National Alliance of Life Companies (NALC) appreciates the opportunity to submit this comment letter and thanks you for extending the comment period. We appreciate your willingness to seek input from organizations like ours regarding a best interest standard of conduct. We hope you find our comments useful, and we stand ready to answer any questions that you may have.

The NALC is a national trade association consisting primarily of small and mid-sized life and health insurance companies. Our members include more than 60 life insurers and associate members from across the United States that provide a broad range of financial services products including life insurance, annuities, and supplemental health insurance.

Our members provide important financial protection to under-served markets – middle class Americans and senior citizens that are not served by companies operating in the higher end market. Many of our members sell policies with a small face amount, sometimes even as small as a few hundred dollars. We are vital providers of services to Americans who may not otherwise receive coverage because these markets are simply not served by the larger industry. It is with this market in mind that we write to offer our comments to the model regulation.

The Goal of Achieving Uniformity with SEC Rules is Premature

The Securities and Exchange Commission (SEC) released new proposed rules that would establish a “best interest” standard for investment advisors and broker-dealers on April 22, 2018 – less than one week ago. Until the SEC issues a final rule, the goal of achieving uniformity is not possible.

The Proposed Best Interest Standard Would Harm Americans Who Lack Retirement Security

America's baby boomers are not financially prepared for retirement. A mere 23% of baby boomers believe they have sufficient savings to last through their retirement. According to a recent study by the Insured Retirement Institute, only 54% had any retirement savings at all, and only 40% had calculated how much money they would need to retire. For baby boomers in the middle and lower economic classes, the gap in retirement funding is even more severe. Annuities play a vital role in addressing the retirement financing crisis. Both variable and fixed annuities enable Americans to manage one of their most significant risks – the risk of living long after their assets have been exhausted.

As others have also observed, we also have concerns with imposing a "best interest" standard of care for annuity transactions. The standard that has been proposed is confusing, hopelessly vague and subject to multiple interpretations by regulators and courts. We are very concerned about the considerable legal and compliance risk to companies and producers associated with differing applications of an ill-defined higher standard while not providing consumers any additional protection. Proponents of a best interest standard should first identify specific problems in the marketplace so they can be specifically addressed.

We have very strong concerns that the proposed standards regarding sales of annuities will drive producers out of the market altogether and significantly shrink the availability of annuities available to all Americans. Middle class baby boomers – those who stand to benefit the most from the financial protection that annuities afford - will be hit the hardest at the worst possible time. An important aspect of consumer protection is ensuring access to the financial products Americans need to prepare for retirement.

We urge the NAIC to take a balanced approach that ensures the preservation of annuity markets while maintaining access to professional advice. Issues concerning compensation can be better addressed through disclosure than through the imposition of a complex set of new compliance obligations that is certain to results in significantly reduced product available and choice for American consumers.

Suitability Standards for Annuities Should Not be Extended to Life Insurance Products

We are unaware of any examples of systemic problems associated with the sale of life insurance products that could be remedied by the general application of suitability standards to all life insurance products. Variable life insurance products are already subject to a suitability regime through the SEC and FINRA. The application of a "best interest" standard to life insurance would increase the complexity of purchasing life insurance, erecting barriers for consumers to overcome at a time when the industry and regulators should be exploring ways to reduce barriers in an effort to increase the insured population.

Any extension of "best interest" standard to life insurance, however, should also provide for an exemption or safe harbor for certain products such as term insurance, small policy amount, pre-need, and similar products. The proposals that we have seen would create uncertainty and confusion, leading to unnecessarily costly and burdensome requirements. This is particularly the case for many of our members who would find it impossible to issue the small-dollar policies they offer today. In the communities where our members work, the overriding "best interest" is that families secure more financial protection, not less. That will not be possible if the cost of doing business for small face amounts rises too high.

We appreciate the NAIC's desire for uniformity and leadership on this issue. We are very concerned, however, about a view of consumer protection that emphasizes increasing the regulatory burden while erecting barriers to increasing the insured population. We are also concerned about a patchwork approach to regulation, given that conversations are happening in states, at the NAIC and in the courts. To avoid confusion, we urge more collaboration and more deliberation between the various bodies considering a best interest standard. The NAIC should avoid adopting a regulation while the SEC is in the rulemaking process and the courts are being asked to reconsider the Department of Labor (DOL) rule.

Thank you again for the opportunity to share our views on this important issue.

Sincerely,

Jim Hodges

Jim Hodges
Executive Director, NALC