

NAIC rule aims to protect seniors buying annuities

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The National Association of Insurance Commissioners (NAIC) has adopted a model regulation designed to help protect senior consumers age 65 years or older when they purchase or exchange annuity products.

"This action will provide our senior consumers peace of mind that they are well-protected when making financial decisions," said Utah Insurance Commissioner Merwin Stewart, who also chairs the NAIC Life Insurance and Annuities Committee.

The new regulation sets forth standards and procedures for insurers and insurance producers relating to the purchase or exchange of annuity products involving senior consumers as follows:

- In recommending to a senior consumer the purchase of an annuity or exchange of an annuity that results in another insurance transaction, the insurance producer, or the insurer where no producer is involved, must have reasonable grounds for believing that the recommendation is suitable for the senior consumer on the basis of the facts disclosed by the senior consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

- Prior to the purchase or exchange of an annuity, there must be reasonable efforts to obtain information about the senior consumer's financial status, tax status, investment objectives, and other information that could be reasonably considered by the insurance producer or insurer in making recommendations to the senior consumer.

- Neither an insurance producer, or an insurer where no producer is involved, will have any obligation to a senior consumer related to any annuity transaction if a consumer refuses to provide relevant information requested by the insurer or insurance producer, decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer, or fails to provide complete or accurate information. An insurer or insurance producer's recommendation will be considered reasonable under the circumstances actually known to the insurer or producer at the time of the recommendation.

- An insurer must assure that a system to supervise recommendations is in place that is reasonably designed to achieve compliance with the regulation. An insurer may meet its obligations by conducting periodic reviews or by contracting with a third party, such as an independent agency, to maintain the supervisory system and to provide certification to the insurer that the supervision is occurring.

- Compliance with the National Association of Securities Dealers Conduct Rules regarding suitability will satisfy the requirements for variable annuities. However, this does not limit the insurance commissioner's ability to enforce the provisions of the new regulation.

Additionally, the model regulation does exempt insurers and insurance producers from recommendations involving direct-response solicitations (where no recommendations are made based on information provided by the consumer pursuant to the regulation), as well as various funded contracts covered under federal law.□