NAIC Best Interest Annuity Suitability Policies and Procedures

Producers' Guide

I. 2020 Suitability in Annuity Transactions – Model Synopsis (For complete information see *National Association of Insurance Commissioners (NAIC) 2020 Suitability In Annuity Transactions Model Regulation 275* or applicable state variation.)

Purpose

The *2020 Suitability in Annuity Transactions Model Regulation*, amended and adopted by the NAIC, updates and revises previously established standards and procedures for suitable individual annuity recommendations by requiring producers, as defined in the regulation, to act in the best interest of the consumer when recommending an annuity and to help ensure that consumers' insurance needs and financial objectives are effectively addressed.

Scope

Where adopted, the regulation applies to any sale or recommendation of an individual annuity.

Definitions

Annuity – a deferred or immediate fixed or variable annuity that is an insurance product under state law that is individually solicited.

Cash Compensation – any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

Consumer Profile Information – information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs and financial objectives, including, at a minimum, the following:

- Age
- Annual Income
- Financial situation and needs (including debts and other obligations)
- Financial experience
- Insurance needs
- Financial objectives
- Intended use of the annuity
- Financial time horizon
- Financial resources used to fund the annuity
- Existing assets or financial products (including investment, annuity and insurance holdings)
- Liquidity needs
- Liquid net worth
- Risk tolerance (including but not limited to, willingness to accept non-guaranteed elements in the annuity)
- Tax status

Intermediary – an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.

Material conflict of interest – a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation.

It does not include cash compensation or non-cash compensation.

Non-cash compensation – any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

Non-guaranteed elements – the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

Producer – a person or entity required to be licensed under state law to sell, solicit, or negotiate insurance products, which includes annuities. Producer includes an insurer where no producer is involved.

Recommendation – advice provided by a producer to an individual consumer that was intended to result or does result in the purchase, exchange, or replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

Replacement – a transaction in which a new annuity is to be purchased and it is known or should be known to the proposing producer, or proposing insurer whether or not a producer is involved, that by reason of the transaction an existing annuity or other insurance policy has been or is to be: (1) lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated; (2) converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values; (3) amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid; (4) reissued with any reduction in cash value; or (5) used in a financed purchase.

Best Interest Obligations of the Producers of the insurance companies of OneAmerica

When recommending an annuity, the producer shall:

1. Act in the best interest of the consumer under the circumstances known at the time recommendation is made without placing producer's or insurer's financial interest ahead of consumer's interest; and
2. Act in the best interest of the consumer by satisfying the following **Best Interest Obligations:**
    - **Care Obligation;**
    - **Disclosure Obligation;**
    - **Conflict of Interest Obligation; and**
    - **Documentation Obligation.**

The Best Interest Obligations apply 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.

- *Material control or influence* does not include activities such as providing or delivering marketing or educational materials, product wholesaling or other back office support, and general supervision of a producer.

Care Obligation:

When recommending an annuity, the producer shall exercise reasonable diligence, care and skill to:

1. Know the consumer's financial situation, insurance needs and financial objectives;
2. Understand the available recommendation options after making a reasonable inquiry into options available to the producer;
3. Consider all types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs and financial objectives;

4. Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product, **as evaluated in light of the consumer profile information**;
5. Consider collectively consumer profile information, characteristics of insurer, product costs, rates, benefits, and features in making determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives;
6. Communicate the basis or bases of the recommendation;
7. Make reasonable efforts to obtain consumer profile information from the consumer PRIOR to the recommendation of an annuity;
8. Have a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance related features;
9. Consider the annuity as a whole, including underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders, and other product enhancements, if any;
10. In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:
    - The consumer will incur a surrender charge, be subject to a new surrender period, lose existing benefits, such as death, living or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and other product enhancements;
    - The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and
    - The consumer has had another annuity exchange or replacement within the preceding (60) months (5 years), or applicable state law timeframe.

Disclosure Obligation:

1. Prior to the sale or recommendation of an annuity, the producer shall prominently disclose to the consumer the following (on a form as required by the insurer, such as ***I-34191, Producer Compensation Disclosure for Annuities***):
    - Scope and terms of the relationship with the consumer and the producer's role in the transaction;
    - Types of products the producer is licensed and authorized to sell;
    - How many insurers the producer is authorized to sell insurance for;
    - Description of the sources and types of cash and non-cash compensation the producer will receive; and
    - Notice of consumer's right to request additional information regarding the cash compensation described that the producer will receive.
2. If consumer or consumer's designated representative request additional information regarding cash compensation the producer will receive, then producer must disclose to the consumer the following information:
    - A reasonable estimate of the amount of cash compensation the producer will receive. This may be a stated range of amounts or percentages; and
    - Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages.
3. Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of the various features of the annuity, such as:
    - Potential surrender period and surrender charges;
    - Potential tax penalties if the consumer sells, exchanges, surrenders or annuitizes the annuity;
    - Mortality and expense fees;
    - Investment advisory fees;
    - Any annual fees;

- Potential charges for and features of riders or other options of the annuity;
- Limitations on interest returns;
- Potential changes in non-guaranteed elements of the annuity;
- Insurance and investment components and market risk.

Conflict of Interest Obligation:
A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

Documentation Obligation:
A producer at the time of recommendation or sale shall:

1. Make a written record of any recommendation and the basis for the recommendation;
2. If applicable, some states provide for obtaining consumer signed statements:
   - Documenting refusal to provide consumer profile information;
   - Documenting understanding of ramifications of not providing consumer profile information or providing insufficient consumer profile information; and
   - Acknowledging that an annuity transaction is not recommended if a consumer decides to enter into an annuity transaction that is not based on the producer's recommendation.

While some states allow the consumer to opt out as indicated by obtaining consumer signed statements, the insurance companies of OneAmerica may deem an annuity transaction not in the best interest of the consumer if relevant information is not provided or if the information supplied is inconsistent or contradictory.

Transactions not based on a recommendation

A producer shall not have an obligation to a consumer if:

- No recommendation is made;
- A recommendation is made and is later found to have been prepared based on materially inaccurate information provided by the consumer;
- A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended;
- A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

The insurance companies of OneAmerica may deem an annuity transaction not in the best interest of the consumer if relevant information is not provided or if the information supplied is inconsistent or contradictory.

Prohibited Practices

Neither a producer or insurer shall dissuade, or attempt to dissuade, a consumer from:

- Truthfully responding to an insurer's request for confirmation of the consumer profile information;
- Filing a complaint; or
- Cooperating with the investigation of a complaint.

Producer Training Requirements

- A producer shall not solicit the sale of an annuity product unless he/she has adequate knowledge of the product to recommend the annuity, and he/she is in compliance with the insurer's standards for product training.
- A producer who engages in the sale of annuity products shall complete a state specific best interest annuity training course (approved by the state department of insurance) and provide the insurer with the certificate of completion of the training course.
- An insurance producer who engages in the sale of annuity products shall complete insurer product specific training prior to the solicitation or recommendation of an annuity.
- If the ***Best Interest Consumer Suitability and Due Diligence Questionnaire*** and ***Producer Compensation Disclosure for Annuities*** is received without proof of

completed training, then the insurance producer must complete the training and submit a new application, a new questionnaire, and a new disclosure affirming, post-training, that the product is suitable and in the best interest of the consumer.

Recordkeeping Requirements

- Insurers, general agents, independent agencies, and producers are required to maintain or be able to make available to the state insurance commissioner or appropriate regulatory body records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures and other information that was used in making the recommendations for the insurance transaction, including annuity purchases or exchanges, for seven (7) years after the insurance transaction is completed by the insurer, or longer requirement as directed by applicable state law.
- Records that are required to be maintained because of the "Consumer Suitability in Annuity Transactions" regulation may be paper, photographic, microprocess, magnetic, mechanical or electronic media, or by any process that accurately reproduces the actual document.

Responsibilities of Insurer – the insurance companies of OneAmerica

The insurance companies of OneAmerica will:

- Establish and maintain written procedures to assure that a system to supervise recommendations is reasonably designed.
- Establish and maintain standards for producer product training and provide product-specific training which explains material features of its annuity products.
- Establish and maintain procedures to review a recommendation prior to issuance of an annuity to ensure there is a reasonable basis to determine the recommended annuity would effectively address a consumer's financial situation, insurance needs and financial objectives.
- Establish and maintain procedures to detect recommendations that are not in compliance with any applicable state requirements and the policies within this document.
- Establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer any applicable required information.
- Establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information.
- Establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time.
- Conduct periodic reviews of its records, designed to assist in detecting and preventing violations of this regulation.

II. Standards of Suitability and Consumer Profile Information of the insurance companies of OneAmerica

Recommendations made by our producers for annuity purchases should be made in the best interest of the client and effectively address the client's financial situation, insurance needs, and financial objectives over the life of the annuity product, as evaluated in light of the consumer profile information. Realizing that each client and each situation is unique, the producer should consider collectively, the characteristics of the insurer, annuity product costs, rates, benefits and features, and the following **Standards of Suitability and Consumer Profile Information** in making a determination whether the annuity product effectively addresses the client's financial situation, insurance needs and financial objectives.

General Suitability

1. How/why is an annuity, in general, in the best interest of your client?
2. Which ***specific*** annuity product best meets the client's financial situation, insurance needs and financial objectives?
3. How/why is the ***specific*** annuity product as a whole suitable? If applicable, this includes subaccount allocations, product features, riders and any other product enhancements, and whether the annuity is immediate or deferred.
4. In the case of an exchange or replacement of an annuity:
   - Will the client be adversely affected by an exchange or replacement, such as incurring a surrender charge, subject to a new surrender period, loss of existing benefits (such as death, living or other contractual benefits), or be subject to increased fees or charges (including for riders and other product enhancements)? For example, would annuitizing an existing deferred annuity be more beneficial and in the best interest to the client than replacing with an immediate annuity?
   - Will the replacing product substantially benefit the client in comparison to the replaced product over the life of the product?
   - Has the client had another annuity exchange or replacement (with you or with another producer/carrier) and, in particular, an exchange or replacement in the preceding 60 months (5 years), or applicable state law timeframe.

Age

1. When considering a client's age as part of a consumer suitability analysis, a producer should consider if the client is:
   - Senior Client: Clients who are of an advanced age may not need or want an annuity as a long term savings instrument. Consider whether a minimum holding period is necessary before the tax deferral benefits offered by an annuity outweigh the potential fees imposed on an early annuity distribution.
   - Under the age of 59½: In addition to any applicable surrender charges, clients under the age of 59½ who access their cash value may be subject to a federal tax penalty of 10% on those distributions. Consider the implications of this federal tax penalty as it may apply to future distributions to your client.
2. Additional considerations, for clients of any age, may include:
   - Number of years to retirement: Consider if the client is accumulating retirement savings, preparing for retirement income distributions, and/or has immediate income needs.
   - Specific benefits/riders: Consider if a minimum holding period is necessary before the features/benefits offered by the annuity outweigh the potential fees for that feature or rider.

Annual Income

Annual income is earned or unearned income received during a calendar year. Consider if a client's annual income can support the purchase of an annuity product without adversely affecting his/her lifestyle as a client's annual income should be sufficient to cover his/her expenses. If the purchase of an annuity adversely affects the client's lifestyle, it may be unsuitable.

Financial Situation and Needs, Including Debts and Other Obligations

Consider the client's current and future financial needs, including debts and other obligations, and whether or not funds will need to be available sooner rather than later to meet those needs, debts, and obligations. Does the client expect major changes in his/her financial situation within the next 12 months, such as retirement or major medical expenses? Does the client have a need to provide sufficient funds for dependents to help ensure financial independence? If funds for the annuity are from savings or checking accounts, will enough liquid funds be left for daily expenses? If replacing another annuity, will the client incur surrender charges and/or penalties? Is the client selling other assets such as stocks or mutual funds to purchase the annuity? If so, is there a taxable event?

Financial Experience
Consider the client's financial education and investment experience. Annuities are investments and should not be sold to clients who do not understand the benefits and the risks. If applicable, clients should have a level of understanding regarding insurance components, such as death benefits, interest returns and limitations of those returns, and investment components, such as the use of subaccounts, prior to purchasing an annuity.

Insurance Needs
Determine the client's need for insurance. Are the client's insurance needs already being met by products they currently hold?

Financial Objectives
Consider what the client is expecting to achieve with the purchase of an annuity. Are the features of the annuity consistent with the client's financial objectives and needs, such as, immediate income, tax deferred growth, preservation of capital, or asset-based long term care benefits? A client's objective(s) can indicate whether or not an annuity is a suitable investment.

Intended Use of the Annuity
Determine the purpose for which the consumer is considering the purchase of an annuity. Evaluate whether features, benefits, and/or riders of a particular annuity help to achieve the client's intent. A client's intended use can indicate whether an annuity and the riders are a suitable investment, or, if another product would better meet the client's expectations.

Financial Time Horizon
Annuities are generally designed to be long term savings vehicles. Consider how long an individual anticipates keeping the product. Surrender charge periods, tax penalties, and an individual's personal goals may make an annuity recommendation unsuitable for some clients. Generally, the anticipated time horizon should exceed the surrender period.

Existing Assets or financial products, including investment, annuity and insurance holdings
Consider the client's existing assets and financial products, investments, annuity and insurance holdings weighing factors such as investment experience, time horizon, risk tolerance, and intended use. The client should have a reasonable balance between short term and long term investments. A suitability analysis should include how the recommendation to purchase or replace an annuity fits into the client's overall financial picture which includes existing assets or financial products, including investment, annuity and insurance holdings.

Liquidity Needs/Sufficient Funds Available
Before recommending an annuity to a client, it is important to consider the client's liquidity needs for the foreseeable future. Verify that your client has sufficient cash or other liquid assets for living expenses and unexpected emergencies, such as medical expenses. There may be surrender charges or early withdrawal tax penalties associated with an annuity.

Liquid Net Worth
Liquid net worth is the part of an individual's net worth that can be readily converted into cash. Liquid net worth could include stocks, bonds, mutual funds, other securities, and bank accounts. It does not include assets that cannot be converted quickly and easily into cash, such as real estate, business equity, personal property, automobiles, expected inheritances, and investments or accounts subject to substantial penalties if they are sold or if assets are withdrawn from them. A thirty percent (30%) or higher percentage of liquid net worth used to purchase an annuity generally represents a significant portion of an applicant's liquid net worth and therefore an annuity recommendation that represents thirty percent (30%) or higher percentage of a client's liquid net worth may not be suitable.

Risk Tolerance, including but not limited to, willingness to accept non-guaranteed elements.
Risk tolerance is the degree of uncertainty that an investor can reasonably accept with regard to a

negative change in his/her investments. The range of risk tolerance includes the extremes of "conservative" (accept little or no risk) to "aggressive" (willing to sustain losses or loss of principle in pursuit of higher returns). Consider a client's market risk tolerance, especially concerning variable annuities and subaccount allocations because a client's stream of income and the underlying annuity value may be diminished depending on how the funds in the annuity are invested. Does the client understand which portions of the proposed annuity contract are not guaranteed? Are they willing to accept these non-guaranteed elements?

Tax Status

The client's intended use of the annuity, current and anticipated future tax status, and potential tax penalties and consequences, especially in the event of an exchange, annuitization, and/or withdrawal of funds from the annuity, should be considered when making a recommendation.

When outside these standards, producers should use the space provided on the ***Best Interest Consumer Suitability and Due Diligence Questionnaire***, I-22733 (BI), to provide an explanation as to why the producer or applicant believes the annuity recommendation is suitable and in the applicant's best interest.

Additional Points to Discuss with the Client

In addition to the **Standards of Suitability and Consumer Profile Information** of the insurance companies of OneAmerica, producers are required to discuss the following with their clients:

Surrender Charges for Early Termination

- Surrender charges, fees, or penalties may be incurred when using an existing policy or contract as a source of premium. Make sure that your client understands and accepts the possibility of incurring such charges, fees, or penalties.
- Most annuity contracts have surrender charges for early termination. If the product being recommended has applicable surrender charges, fully disclose these to your client, and make sure that your client understands and accepts the possibility of incurring such charges.

Annual Expense Charges

Discuss the costs and charges for the annuity as a whole and the features and benefits associated with each recommended annuity. This should include, if applicable, mortality and expenses, annual administrative charges, and the fees for the riders or other product features of the recommended annuity.

Qualified and Non-Qualified Annuity Contracts

You must differentiate qualified funds from non-qualified funds when determining if an annuity contract is in the best interest of the client.

- Due to the tax deferred nature of both a qualified retirement account and annuities, purchasing an annuity for tax deferral cannot be the sole reason to invest qualified retirement account funds. Qualified accounts are required to have non-tax related objectives for the purchase of an annuity.
- Non-qualified annuities may have tax penalties if withdrawn before age 59½. Liquidity needs should be considered prior to the investment into an annuity contract. The producer should have an understanding of potential liquidity needs of their client.

III. Procedures of the insurance companies of OneAmerica

1. Producers shall make reasonable efforts to collect financial data on the ***Best Interest Consumer Suitability and Due Diligence Questionnaire*** ("Form"), so that:
    - Compliance with federally mandated Anti-Money Laundering (AML) requirements of the USA Patriot Act are met;
    - Compliance with various state mandated consumer suitability best interest statutes for annuities are met; and
    - All state variations of information required to be obtained from the applicant to determine suitability and consumer

profile information are included on the Form. By completing the Form in its entirety, producers are fulfilling these federal and state law requirements.

2. Producers shall make reasonable efforts to complete the ***Producer Compensation Disclosure for Annuities*** ("Disclosure"), so that:
   - Compliance with various state mandated consumer suitability best interest statutes for annuities are met. By completing the Disclosure in its entirety, producers are fulfilling state law requirements.
3. Producers must submit a completed Form and Disclosure to the Home Office with each application for individual annuities, **EXCEPT**:
   - Variable annuities (accompanied by a New Account Form) submitted through OneAmerica Securities; and
   - Distributors who have entered into a suitability delegation amendment approved by the Legal Department of The State Life Insurance Company® (State Life) to accept the responsibility for performing the suitability best interest functions ordinarily performed by OneAmerica.
4. If a Form and Disclosure are not received with the application, the Form and Disclosure will be added as a pending requirement. A policy and/or contract cannot be issued or transfer of 1035 money cannot be requested until both a completed Form and Disclosure are received and reviewed by the Home Office.
5. The ***US Patriot Act Notice, Customer Identification Verification, and Verification of Source of Funds*** form (7-17078) is required for all life and annuity applications except term life insurance, unless when converting term to a cash value policy or contract.
6. During regular New Business processing, a Home Office Associate will review the Form and Disclosure for completeness.
   - If both the Form and Disclosure are signed and complete:
     - A Home Office Associate will continue to process the application following standard procedures.
   - If either the Form or Disclosure are incomplete:
     - If either the Form or Disclosure are missing a signature, but are otherwise complete, the required signature will be added as a pending requirement.
     - If either the Form or Disclosure are incomplete, a Home Office Associate may need to request and receive additional information, explanations, or clarification from the Producer. Information requested/required by the Home Office may not be limited to the forms provided. Producers are encouraged to make notes and use additional paper as needed to submit a more detailed description of the recommended sale.
   - A policy and/or contract cannot be issued or transfer of 1035 money requested until a completed Form and Disclosure both in good order are received in the Home Office.
   - Any additions, updates, and/or corrections to either the Form or Disclosure from the Producer must be in writing. Faxes and e-mails are acceptable. Updates and/or corrections via the telephone are not permissible.
7. In addition to the "Completeness Review", annuity files will be reviewed for suitability best interest by a Home Office Associate, as described below:
   - During the "Suitability Best Interest Review", a Home Office Associate may request that the Producer provide additional information, explanations or clarifications.
   - All additional information provided by the Producer must be in writing.
8. A Home Office Associate may, but is not limited to:
   - Approve the transaction with no further information requested if within the established suitability best interest guidelines;

- Request additional information and proceed with the suitability best interest review;
- Determine that the recommendation is unsuitable and not in the best interest of the client.

9. If a Home Office Associate determines the recommendation to be outside the **Standards of Suitability and Consumer Profile Information** (as described earlier in this document), further suitability best interest review may be warranted. A Home Office Associate will follow established escalation procedures for the review and handling of annuity transactions.