

The NAIC Suitability in Annuity Transactions Model Regulation and What it Means for You as an Insurance Producer

In 2020, the **National Association of Insurance Commissioners** (“NAIC”) adopted revisions to the *Suitability In Annuity Transactions Model Regulation* (the “Suitability Model”) which require producers to “act in the best interest of the consumer when making a recommendation¹ of an annuity and require insurers to establish, and maintain, a system to supervise recommendations of annuities.”

The revisions to the Suitability Model are intended to bring state insurance regulations into alignment with **Securities and Exchange Commission’s** (“SEC”) *Regulation Best Interest* (“Reg BI”). The revisions to the Suitability Model explicitly do not create a fiduciary obligation or fiduciary relationship for producers, and as with previous versions of the suitability model, the revised version applies to any sale or recommendation of an annuity, with the exception of, amongst others, transactions involving contracts used to fund certain plans under the Employee Retirement and Income Security Act (“ERISA”), certain contracts under Sections 401(k), 403(b), and 457 of the Internal Revenue Code (“IRC”), and certain nonqualified deferred compensation arrangements.² The revisions to the Suitability Model add several “best interest obligations” which require producers, when making a recommendation of an annuity, to act in the best interest of the consumer.

Several states have taken steps to adopt the revisions to the Suitability Model, and **National Life Group** (“NLGroup”) anticipates many, if not most, states will follow suit. NLGroup will take a state-by-state implementation approach, implementing the requirements in states one-by-one as states adopt the revisions to the Suitability Model; however, NLGroup will explore implementing the revisions to the Suitability Model nationally in the future, regardless of regulatory action.³

¹ In this document, and in MDL-275, “‘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, [and] 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.”

² This list is not exhaustive and other exemptions may apply.

³ Adoption of the provisions of MDL-275 will not affect Florida or New York until such time as those states adopt MDL-275.

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Best Interest Obligations

The overarching requirement (the “best interest obligation”) of the Suitability Model is to place the consumer’s interest above the financial interests of the producer (“You”) or the insurer (“NLGroup”). There are four subsets of best interest obligations – the “**care obligation**,” the “**disclosure obligation**,” the “**conflict of interest obligation**,” and the “**documentation obligation**.” You, as the producer, act in the consumer’s best interest when You meet the obligations outlined in these four subsets of best interest obligations.

Care Obligation

- Know the consumer's financial situation, insurance needs, and financial objectives.
- Understand the products You may recommend to the consumer.
- Have, and communicate in writing to the consumer, a reasonable basis to believe the consumer would benefit from certain features of the annuity.
- Obtain consumer profile information prior to recommending an annuity using the [Consumer Profile Information \(or “CPI”\) Form 10068](#).
- If a replacement is involved, consider the transaction holistically, including if the replacement will substantially benefit the consumer.
- Consider if the consumer has had a replacement in the past 60 months.

Disclosure Obligation

- Prior to recommending an annuity, provide a complete [Producer Disclosure \(“Appendix A”\) Form 20762](#) to the consumer and to NLGroup.
- If the consumer asks You to provide additional information about Your compensation, You must provide additional information, including anticipated amount of compensation which you may disclose as a range or percentage.
- Form 20762 must be signed by You and the client. Both You and the client should retain a copy, and a copy must be submitted with the application.

Conflict of Interest Obligation

- Identify, and avoid or reasonably manage, and disclose (if any) Your “financial interest (such as ownership interest) ... in the sale of an annuity that a reasonable person would expect to influence the impartiality of [Your] recommendation” (“material conflicts of interest”).

Documentation Obligation

- Document at the time of recommendation or sale and maintain a written record of any recommendation and the basis for the recommendation.
- Create a good record keeping system for You to house consumer information, forms, and records.

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Producer Training

The revisions to the Suitability Model require You to complete a robust training program. The training program has two elements, and You must complete both elements prior to soliciting the sale of annuities. The first element is **product training**.

Product Training

- The product training required by the regulation is offered by NLGroup.
- You are required to take this training prior to solicitation.
- This training is accessible on the Agent Portal, and contains information about NLGroup annuity products.

The second element is **state-approved training**. This element is a little more complex, and You may have some options for completion.

Four-Credit Course

- You are required to take a one-time, four-credit course prior to soliciting the sale of annuities.
- You may have taken a course satisfying this requirement under the previous version of the Suitability Model. If You have not, You must take a new four-credit course. If You have, You have options - You may either take a new four-credit course, or...

One-Credit Course

- If You have already taken a four-credit course under the previous version of the Suitability Model, You may opt to take either a new four-credit course (as noted above), or a one-time, one-credit course bringing Your previous four-hour course in compliance with the new version of the Suitability Model.
- If You have taken a four-credit course under the previous version of the Suitability Model, You may have a six month grace period during which You may continue to solicit the sale of annuities.

NLGroup recommends [RegEd⁴](#) for this training, but several other vendors offer training as well. Please note that some states' training requirements may vary from what is described above.

NLGroup has several additional resources to assist You in annuity solicitation:

[Form 2630 – Required State Forms for Annuities](#)

[TC118690 – Navigating a Smooth Ride](#)

[Form 20359 – Annuity Product Training Requirements](#)

[Position Statement and Guidelines for Replacements](#)

[Position Statement and Guidelines for Annuity \(Best Interest\) Suitability](#)

⁴ When clicking on the RegEd option, a color-coded adoption status map may be viewed.