Updating the NAIC Annuity “Best Interest” Model Regulation

Presentation by Insured Retirement Institute (IRI)
Introductions

Today’s Presenter

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Presentation Topic: Current Status of Adoption and Implementation

IRI At-a-Glance

The leading association for the entire supply chain of insured retirement strategies
What is the Current Status?

16 states have currently adopted the recent updates to the Model

8 proposals in the works

And more are expected. We are on track to see adoption or enactment of the Model in at least half the states by year-end.
<table>
<thead>
<tr>
<th>SEC and FINRA</th>
<th>DOL</th>
<th>NAIC / State Insurance Departments</th>
<th>State Securities Departments</th>
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<tr>
<td>❑ Reg BI and Form CRS in effect</td>
<td>❑ New PTE for providers of fiduciary investment advice (PTE 2020-02) now in effect</td>
<td>❑ New York amended annuity suitability rule in 2019</td>
<td>❑ Massachusetts Fiduciary Rule now in effect</td>
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<td>❑ SEC and FINRA have issued numerous pieces of guidance to support industry compliance efforts</td>
<td>❑ Non-enforcement policy in effect through 12/20/21; IRI seeking delay</td>
<td>❑ Overturned by Appellate Court in May 2021; Appeal pending</td>
<td>❑ New Jersey fiduciary proposal on hold until at least end of 2021</td>
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<td>❑ Compliance with Reg BI and Form CRS is top exam priority in 2021</td>
<td>❑ New PTE not viable for independent insurance agents, but PTE 84-24 remains available</td>
<td>❑ Revised Model approved by NAIC in February 2020</td>
<td>❑ Unclear whether proposal is a priority for new leadership</td>
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<td>❑ Examiners looking for more than good faith efforts to comply</td>
<td>❑ Overly broad re-interpretation of five-part test remains in place</td>
<td>❑ Safe harbor for compliance with comparable standards</td>
<td>❑ No movement from Nevada, Maryland, or other states on new fiduciary proposals</td>
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<td>❑ SEC Chair Gensler focused primarily on enforcement of Reg BI; Potential enhancements seemingly not imminent</td>
<td>❑ DOL Spring Agenda includes rulemaking on definition of fiduciary investment advice, PTEs</td>
<td>❑ Updated producer training required</td>
<td>❑ NASAA conducting multi-phased survey of state securities departments to gauge effectiveness of Reg BI and Form CRS</td>
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<td>❑ FINRA Variable Annuity Suitability Rule (Rule 2330) remains in effect</td>
<td>❑ Expected to significantly broaden fiduciary definition, impose more stringent conditions in 2020-22, potentially revoke 84-24</td>
<td>❑ Already in effect in 11 states (AZ, AR, DE, ID, IA, MI, MT, OH, RI, TX, VA); adopted but not yet in effect in five others (AL, CT, ME, NE, ND)</td>
<td>❑ Expected to serve as justification for development of uniform fiduciary model law</td>
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<td>❑ IRI leading joint trades effort to develop research, messaging, and strategy to support best interest standard, oppose further rulemaking</td>
<td>❑ Proposals pending in seven states (KY, MD, MS, NM, NV, PA, SC, WI), and under development in several others</td>
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How Is Implementation Going?

1. Many states adopting the Model **without substantive deviations.**

2. **Ease** of adoption and **support** from various stakeholders

3. **Alignment** with federal rules/standards.
What Did We Learn?

**Challenges**

- Interpretation of training obligations
- Time needed for producers and insurers to implement requirements

**Support Efforts**

- NAIC issued FAQs in July 2021; industry trade organizations developed resources to assist regulators
- Building in implementation lead time within the regulation, consistent with the Model language