Statement for the Record

Submitted to the

U.S. House Committee on Financial Services
Subcommittee on Investor Protection, Entrepreneurship and Capital Markets

"Putting Investors First? Examining the SEC's Best Interest Rule"

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On Behalf of

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The American Council of Life Insurers (ACLI) appreciates the opportunity to submit this statement for the record on "Putting Investors First? Examining the SEC's Best Interest Rule."

The insurance industry supports a best interest standard of care for all financial professionals. When recommending an annuity, financial professionals should be required to act with care, skill, diligence and prudence and avoid or reasonably manage conflicts of interest. Consumers should know the range of products and services financial professionals offer, how they will be compensated and whether the financial professional has any material conflicts of interest. These obligations are consistent with important regulatory initiatives now under way at the National Association of Insurance Commissioners and the Securities and Exchange Commission (SEC).

THE AMERICAN COUNCIL OF LIFE INSURERS

ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry and the 90 million American families relying on life insurers' products for financial protection and retirement security. ACLI's 280 member companies represent 95 percent of industry assets and are dedicated to promoting consumers' financial well-being with products that reduce risk and increase their financial security, including life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision insurance and other supplemental benefits. The core business of the life insurance industry is financial security, and retirement security is a critical mission. As society and work change, the industry is committed to solutions that protect all Americans, regardless of where and how they work, their life stage, or the economic status of their household. Life insurers seek to expand the availability, accessibility, and affordability of financial protection and retirement security products for all.

ACLI SUPPORTS A BEST INTEREST STANDARD OF CARE FOR ANNUITIES

ACLI is committed to a uniform, harmonized best interest standard of care for annuity and securities transactions across all state and federal regulatory platforms for financial services firms and financial professionals. This standard would benefit retirement savers and, indeed, all consumers planning and saving for the future.

Experience with the Department of Labor's now-vacated investment advice fiduciary regulation showed the regulation's actual harm to consumers. When faced with a fiduciary standard, many financial firms moved to a fee-for-service-only model, eliminating choice and access for small and moderate balance savers and typical buy-and-hold investors who rely on commission-based advice for their retirement needs. As a product that is designed as a long-term retirement solution, most annuities are sold on a commission basis. According to a LIMRA survey, if the Labor Department's fiduciary regulation had remained in-force, 54 percent of advisors might have dropped or turned away small investors, resulting in as many as 4 million middle class households losing access to information they need to ensure a secure retirement. Further, according to independent research by the American Action Forum, the DOL fiduciary regulation had the potential to increase consumers costs by $46 billion, or $813 per individual retirement account (IRA). LIMRA also states that consumers who work with a financial professional are more likely to be contributing to their employers' retirement plans (86% vs. 77%) than those who don't work with one and consumers who work with a financial professional are more likely to be saving for retirement (92% vs. 70%) than those who don't. Finally, pre-retirees who work with a financial professional are significantly more likely to have calculated the amount of assets and investments they will have available in retirement (58% vs. 35%).

ACLI supports rules requiring all financial professionals, when making a recommendation, to act in the consumer's best interest -- with care, skill, prudence, and diligence -- based on the consumer's financial needs and objectives. ACLI also supports rules requiring financial professionals to avoid or reasonably manage conflicts of interest through increased transparency. This is consistent with National Association of Insurance Commissioners (NAIC) and Securities and Exchange Commission (SEC) initiatives underway.

These efforts for increased transparency include the disclosure of all material conflicts of interest; the types and scope of services provided; and the types of compensation to be received by the financial professional. In short, consumers should know whether a financial professional, in making a recommendation, has a material conflict of interest.

These requirements would build on and enhance the strong protections in place today. Strong consumer protections and a long history of integrity and commitment to retirement savers help explain why Americans rely on life insurers and the financial professionals who distribute their products to help them achieve financial security in retirement. Adoption of fiduciary standards – and differing standards from state to state -- will cause adverse consequences for consumers.

According to the latest available data, the median annual household income of annuity owners is $64,000. Eighty percent have total annual incomes below $100,000 and more than a third (35 percent) have household incomes less than $50,000. The best interest standard that life insurers support will enable retirement savers at all income levels to maintain access to, and information about a full range of products, including annuities, the only financial products in the private marketplace that can guarantee lifetime income.

Life insurers are offering a better alternative to provide retirement savers and all consumers with certainty that financial professionals are acting in their best interest when recommending annuity and securities products, while preserving consumer choice. We also seek a uniform approach to consumer protection. A patchwork of state and federal laws and regulations will spread uneven protections across the country and across the retirement plan marketplace, jeopardizing savers' ability to obtain long-term financial peace of mind.

ACLI has filed four submissions with the SEC on its Proposed Regulation Best Interest, Proposed Form CRS, Investment Adviser Interpretations and the Proposed Summary Disclosure Initiative. These SEC initiatives were designed to enhance the quality and transparency of investors' relationships with investment advisers and broker-dealers while preserving access to a variety of types of advice relationships and investment products. In sum; the SEC's

- Proposed Regulation Best Interest "requires a broker-dealer to act in the best interest of a retail customer when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer."
- Proposed Form CRS "would provide retail investors with simple, easy-to-understand information about the nature of their relationship with their investment professional and would supplement other more detailed disclosures."
- Proposed investment advisers' interpretations "reaffirm SEC positions about the fiduciary duty investment advisers owe to their clients." Through the reconfirmed interpretations, "investment advisers and their clients would have greater clarity about advisers' legal obligations."
- Proposed Summary Disclosure Initiative for variable insurance contracts is simplified, plain-English information through a layered process with access to more detailed information

through supplemental web-based or paper distribution on request.

SUMMARY OF ACLI'S POSITION ON REGULATION BEST INTEREST ("Reg. BI")

ACLI supports a best interest standard that would require financial professionals to put a consumer's interest first by (i) acting with reasonable care, skill, prudence, and diligence in gathering and evaluating information regarding the consumer that is used to make the recommendation; (ii) making no misleading statements; (iii) providing full and fair disclosure of the recommended product's features, fees, and charges; (iv) fairly disclosing how and by whom the financial professional is compensated; and (v) avoiding, disclosing, or otherwise reasonably managing material conflicts of interest. Reg. BI fully fulfills these objectives.

The SEC's years of experience regarding investment adviser and broker-dealer regulation dovetails with developing a constructive best interest standard that can be uniformly applied across all regulatory platforms, including state insurance regulations. As a result, consumers will enjoy a consistent level of protection and will be able to obtain access to a wide range of retirement products and advice. To meet their financial and retirement security needs, retirement savers deserve standards ensuring continued access to a wide variety of retirement products, retirement savings information and related financial guidance from financial professionals acting in their best interest. Clarity, consistency and coordination across all regulatory platforms will best serve investors, and thwart regulatory arbitrage. The SEC's inclusive outreach to state regulators and the National Association of Insurance Commissioners (NAIC) as partners in the development of a best interest standard is an essential element of effective oversight and regulation. Life insurers strongly support protections serving the best interests of customers, which can be meaningfully safeguarded with disclosure about services and material conflicts of interest. This approach provides an effective means to shield consumers and facilitate informed purchase decisions.

A full assessment about the current regulatory framework is important to the SEC's thorough evaluation of potential approaches under Reg. BI and should include the comprehensive network of state insurance regulation. Joint collaborative efforts between the SEC, FINRA, DOL and state insurance regulators will generate a uniform best interest standard across all regulatory platforms that properly protects consumers while advancing financial and retirement security. It's important that any proposal works in harmony with the standards set by other regulators. Conscientious evaluation of the many different business models operating in this space and the economic impact of potential modifications will contribute to efficient, effective regulation. Cost-benefit and competitive impact analysis will help achieve this objective.

Disclosure required under Reg. BI will need careful coordination to properly mesh with amendments to Form CRS. A single disclosure fulfilling Reg. BI and Form CRS would reduce disclosure burdens and increase the likelihood consumers will read the required information. The application of Reg. BI's obligations should dovetail with FINRA requirements governing non-cash compensation practices.

SUMMARY OF ACLI'S POSITION ON FORM CRS

The disclosure obligation under Reg. BI provides an important means for consumers to understand the material facts relating to the scope and terms of the relationship, and all material conflicts of interest associated with the recommendation. The SEC's approach properly advances informed consumer decision making, and rightfully allows broker-dealers to create disclosure tailored to their specific business model, product line, and operation. ACLI supports a flexible standard which this framework provides.

ACLI is concerned, however, that the disclosure standards in Form CRS do not mesh well with the disclosure proposed in Reg. BI. Further, the creation of two new disclosure events may frustrate the worthwhile goals of consumer understanding by enlarging the already significant number of disclosures documents a consumer would face. The volume of disclosure currently delivered can, unfortunately, dilute the value of meaningful disclosure essential to understanding and informed decision making. A single disclosure fulfilling Reg. BI and Form CRS would reduce disclosure burdens and increase the likelihood consumers will read the required information. ACLI encourages the SEC to clarify that broker-dealers can appropriately elect to merge required disclosure under Reg. BI and Form CRS in a single document.

The disclosure standards and objectives should be consistent and parallel in Form CRS and Reg. BI to avoid confusion and to promote clear understanding. A more flexible approach to required disclosure is preferable and would better serve consumers. In addition, greater flexibility in content and length of Form CRS will allow life insurers to describe products which are often more complex than those offered by full service broker-dealers.

SUMMARY OF ACLI'S POSITION ON PROPOSED INVESTMENT ADVISER INTERPREATIONS

The SEC must consider the impact of any future proposals on the unique business models of life insurers. Life insurers with associated investment advisers and broker-dealers are subject to multiple layers of regulation from state insurance commissioners, state securities regulators, the SEC, and FINRA. In lieu of any proposed new regulation, the SEC should continue to provide interpretative guidance and rely upon the extensive existing guidance and case law regarding the duties of investment advisers, rather than attempting to codify this body of existing law. Additional licensing and continued education under review would be duplicative of existing state securities licensing and continuing education requirements for investment adviser representatives. Such proposed "enhancements" are aiming to fill a perceived gap that does not exist. ACLI looks forward working with the SEC on this issue.

SUMMARY OF ACLI'S POSITION ON SEC'S SUMMARY DISCLOSURE INITIATIVE

ACLI strongly supports the SEC's summary disclosure initiative and its layered delivery of information about variable annuities and variable life insurance. These products, among others provided by life insurers' help American families achieve financial and retirement security. The summary disclosure initiative greatly advances these important national priorities.

The summary disclosure proposal is a constructive development beneficial to consumers, life insurers, and the environment. Because of the high correlation between summary disclosure, financial literacy and retirement and financial security, the proposal's layered disclosure approach can help alleviate financial literacy challenges in a functional manner and enhance American families' retirement and financial security. With broader exposure to variable contracts through user-friendly summary disclosure, the proposal dovetails with the SEC's capital formation priorities by enlarging the marketplace and broadening the scope of life insurers' investments;

The summary disclosure initiative creates a more balanced regulatory and disclosure environment for financial products competing in the same markets. Careful awareness and coordination about the cumulative disclosure under proposed Regulation Best Interest, Form CRS, the summary disclosure initiative, and required disclosure under state insurance laws will help prevent information overload that thwarts the noble objectives of the proposal. ACLI supports the SEC's desire to "future proof" the rule, keep it from becoming rapidly outdated, and to get it right because “it will be on the books for a long time.”

CONCULSION

ACLI is committed to a uniform, harmonized best interest standard of care for annuities and securities transactions across all state and federal regulatory platforms for financial services firms and financial professionals. This standard will ensure customers will retain access to a wide variety of retirement products, retirement savings information and related financial guidance from financial professionals acting in their best interest- including lifetime income products. In contrast, as evidenced by the now-vacated Department of Labor fiduciary regulation, applying a strict fiduciary standard to all financial professionals in all circumstances would limit or eliminate access to and information about lifetime income products, harming low and moderate balance retirement savers. Additionally, ACLI supports rules to require all financial professionals, when making a recommendation to act with care, skill, prudence, and diligence based on the consumer’s financial needs and objectives.