ACLI
Financial Security...for Life.

THE BEST INTEREST STANDARD: PROTECTING CONSUMERS' FINANCIAL SECURITY

Americans rely on life insurers to help them achieve financial security in retirement through annuities, one of the most powerful retirement security solutions in the private marketplace. Annuities are the only product in the marketplace that can guarantee lifetime income in retirement. Insurance agents and other financial professionals provide consumers with important information and education about annuities. Consumers must have certainty that these financial professionals are acting in their best interest when recommending annuity products, and that financial professionals do not put their own financial interests ahead of savers and retirees.

INSURANCE INDUSTRY'S COMMITMENT TO A BEST INTEREST STANDARD

Consumers should always have the choice to engage financial professionals on either a commissioned basis or a fee-for-service basis. Commissions are used to compensate financial professionals offering annuities. According to the latest available data, the average annuity owner has a household income of $64,000, while more than a third (35%) have household incomes less than $50,000. Experience with the Department of Labor's (DOL) now vacated fiduciary regulation showed that, when faced with a strict "sole interest" fiduciary standard, many financial firms moved to a fee-for-service only model, eliminating commission-based services relied upon by small and moderate balance savers and typical buy-and-hold investors. Thus, by imposing a strict fiduciary standard on all financial professionals, the rule reduced choice for consumers in the marketplace.

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, and diligence based on the consumer's financial needs and objectives. Consumers should know about the types and scope of services to be provided and compensation to be received by the financial professional. These obligations are consistent with important regulatory initiatives by the National Association of Insurance Commissioners and the Securities and Exchange Commission (SEC).

BACKGROUND

In June 2017, the DOL's expanded definition of fiduciary took effect, replacing a definition issued in 1975, soon after passage of the Employee Retirement Income Security Act (ERISA). This new definition applied ERISA's sole interest standard of care not only to traditional fee-for-service investment advisory services but also sales and marketing activities. It caused financial firms to limit access to meaningful investment services for millions of low to moderate balance retirement savers and buy and hold investors. In March of 2018, following a lengthy court process, the Fifth Circuit Court of Appeals vacated the expanded definition.

In April 2018, the SEC proposed Regulation Best Interest as well as Form CRS Relationship Summary and Investment Adviser Interpretations. The SEC produced its final Regulation Best Interest in June 2019.

The NAIC continues its efforts to update its Suitability in Annuity Transactions Model Regulation.

ACLI POSITION

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 savers will retain access to, and information about, annuities. In contrast, applying a strict fiduciary standard to all financial professionals in all circumstances would limit or eliminate access to and information about annuities, harming low and moderate balance retirement savers.

Additionally, ACLI supports rules to require all financial professionals, when making a recommendation, to act in the consumer's best interest - with care, skill and diligence - based on the consumer's financial needs and objectives. Consumers should know about the types and scope of services to be provided and compensation to be received by the financial professional. ACLI also supports requirements to identify and eliminate or mitigate and disclose conflicts of interest. This is consistent with the Regulation Best Interest adopted in June 2019 by the SEC.

AMERICAN COUNCIL OF LIFE INSURERS
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