

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF BUSINESS REGULATION (INCLUDES THE OFFICE OF THE
HEALTH INSURANCE COMMISSIONER)**

Title of Rule: Suitability in Annuity Transactions

Rule Identifier: 230-RICR-20-25-1

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 09/09/2020

End of Public Comment: 10/09/2020

Authority for this Rulemaking:

R.I. Gen. Laws § 27-29-12

Summary of Rulemaking Action:

This regulation provides the standards which must be followed by an insurance producer or insurer to act in the best interest of the consumer when recommending or selling an annuity. The specific substantive changes proposed are as follows:

§ 1.2(A) – The section has been rewritten to clarify the best interest standard and provide that insurers must both establish and maintain procedures.

§ 1.2(B) – The addition clarifies that this is a regulatory standard not a civil liability standard.

§ 1.3 – The sentence has been rewritten to more clearly express the scope of the regulation.

§ 1.4(A)(2)(e) and (f) have been renumbered to § 1.4(A)(3) and (4) to clarify the meaning of the exemptions.

§ 1.5(B) – Added the definition of "Cash compensation" to better define what needs to be disclosed to consumers.

§ 1.5(C) – Added the definition of "Commissioner" to reference the RI statutory definition.

§ 1.5(D) – Added the definition of "Consumer profile information" to provide specifics on the information to be requested and considered by the producer when making a recommendation to the consumer. As a result, eliminate the definition of "Suitability Information" at § 1.5(I) (original numbering).

§ 1.5(F) – Eliminated the definition of "Insurance producer" which is substituted with the definition of "producer" added in § 1.5(M).

§ 1.5(I) – Added the definition of "Intermediary" to define an entity with which an insurer might contract to facilitate the sale of annuities.

§ 1.5(J) – Added definition of "Material conflict of interest" to provide additional clarity to the meaning of the phrase.

§ 1.5(K) – Added the definition of "Noncash compensation."

§ 1.5(L) – Added the definition of "Nonguaranteed elements."

§ 1.5(M) – Added the definition of "Producer."

§ 1.5(N) – Added the definition of "Recommendation" including examples of conduct not included in that definition.

§ 1.5(O) – Amended the definition of "Replacement" to provide additional clarity.

§ 1.5(P) – Added the definition of SEC. § 1.6(A)(1) – This section has been completely rewritten to detail specifics on what the "best interest" of the consumer means in the sale of an annuity.

§ 1.6(A)(2) – This section has been added to provide additional disclosure to the consumer about the producer they are dealing with and the scope of that relationship.

§ 1.6(A)(3) – This section has been added to provide disclosure to the consumer of the compensation the producer will be receiving as a result of the sale.

§ 1.6(A)(4) – This section has been added to require documentation by the producer of the recommendation and the best interest obligation and to obtain a signed statement from the consumer regarding those issues.

§ 1.6(B) – This section has been amended to address transactions not based on a recommendation.

§ 1.6(C) – This section has been added to provide specifics regarding the supervision system which must be put in place by the insurer.

§ 1.6(D) – This section has been added to list practices that are prohibited when undertaken either by the producer or the insurer.

§ 1.6(E) – This section has been added to provide a limited safe harbor for annuities that are both insurance and securities products.

§ 1.7 – This section has been amended to provide that a producer that has previously completed an annuity training course can supplement that education with a one-hour course on the specific changes in this regulation.

§ 1.8 – This section has been amended to clarify its provisions.

§ 1.9 – This section has been amended to clarify its provisions.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until October 9, 2020 by contacting the appropriate party at the address listed below:

Elizabeth Kelleher Dwyer, Esq.
Department of Business Regulation (includes the Office of the Health Insurance Commissioner)
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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Regulatory Analysis Summary and Supporting Documentation:

Annuities are complicated financial products which can be misunderstood by consumers and, therefore, rules are in place to make sure that the particular product recommended or sold is in a consumer's best interest. These amendments are based on the National Association of Insurance Commissioners (NAIC) model and clarify the obligations of insurers and producers. The NAIC model was drafted to be consistent with the SEC standard so that a product that is both insurance and a security will not be subject to two different standards. By following the NAIC model the Department is simplifying compliance for producers and insurers that sell in multiple states.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation see agency contact person above.

