

## AMERICANS NEED DOL'S RETIREMENT SECURITY RULE

The NAIC “best interest” model regulation is inadequate

The NAIC Model Regulation about suitability for annuity transactions does **NOT** adequately protect American retirement investors. The Department of Labor’s Retirement Security Rule will fill the regulatory gap and apply a consistent and strong standard for retirement savings.

- **The NAIC Model Regulation uses the words “best interest” but it is NOT a best interest standard.** The NAIC Model Regulation states that a financial professional acts in the best interest of the retirement investor if the financial professional satisfies four obligations, but none of these four obligations requires the financial professional to act in the best interests of the retirement investor.
- **The NAIC Model Regulation states that cash and non-cash compensation are NOT material conflicts of interest.** Compensation conflicts are some of the most prevalent and significant conflicts of interest. Cash compensation (like commissions) and non-cash compensation (like sales contests) incentivize financial professionals to recommend or sell products that are not in a retirement investor’s best interest. Yet the NAIC Model Regulation does not require a financial professional (a) to disclose all cash and non-cash conflicts of interest or (b) to manage those conflicts to give advice that is in the retirement investor’s best interests.
- **The NAIC Model Regulation does NOT apply to all annuities or other insurance products.** The Model Regulation does not apply to annuities inside many workplace retirement plans, such as 401(k)s or 403(b)s. The Model Regulation also does not apply to other insurance products.
- **The NAIC Model Regulation has NOT been adopted by all states.** To date, only 43 states have adopted the Model Regulation.

### WHY IS THIS AN IMPORTANT ISSUE?

- 1. Annuities are complex products and retirement investors need help to understand them.**
- 2. Regulators have found abuses in the sales of annuities.** Consumers frequently file complaints and arbitrations to challenge bad advice about annuities.
- 3. Congress adopted ERISA so that the highest standard would apply to retirement savings.** The NAIC Model Regulation’s standard is lower than the SEC’s Regulation Best Interest standard that applies to variable annuities. Only the DOL can provide a consistent and strong standard for retirement savings.
- 4. There is a lot of money at stake.** In 2023, the public purchased \$385 billion in annuities (of which \$286 billion were fixed annuities that would be subject to the DOL Retirement Security Rule but not subject to the protections of the SEC’s Regulation Best Interest), and that amount will continue to rise.

**For more information**, please contact Erin Koeppel, CFP Board Managing Director, Government Relations & Public Policy at [ekoeppel@cfpboard.org](mailto:ekoeppel@cfpboard.org)

**Download a comprehensive guide** comparing CFP Board’s *Code of Ethics and Standards of Conduct* to the NAIC Model Regulation [here](#)