

VIA email: tracy.swalwell@idd.iowa.gov

April 28, 2020
Ms. Tracy Swalwell
Iowa Insurance Division
Two Ruan Center
601 Locust Street, Fourth Floor
Des Moines, IA 50309

RE: **Proposed Rulemaking Related to a Best Interest Standard for Insurance and Securities Professionals (ARC 4998C)**

Dear Ms. Swalwell:

The National Association for Fixed Annuities (NAFA)¹ appreciates this opportunity to provide written comments regarding the Iowa Insurance Division’s proposal to amend Rule 191, Chapter 15 of the Iowa Administrative Code to require annuity professionals to act in the best interest of their customers and to make the amended regulation consistent with the recently revised National Association of Insurance Commissioners’ (NAIC) Suitability in Annuity Transactions Model Regulation (Model #275).² NAFA appreciates the leadership of the IID, and, particularly Iowa Insurance Commissioner Ommen, in developing a revised best interest standard of conduct for annuity transactions that is workable, objective, and process based.

NAFA supports a best interest standard of conduct for annuity professionals when making a recommendation to purchase an annuity to ensure their clients’ insurance needs and financial objectives are effectively met. We support a regulatory standard that promotes enhanced disclosures related to the recommendation and that requires annuity professionals to not place their financial interests ahead of their clients. Further, we believe that the revised model regulation – reflected in the IID’s proposed rulemaking – provides meaningful and effective consumer protections, while preserving access to annuity products and supporting those who manufacture, distribute, and sell these critical retirement and financial planning tools.

¹ NAFA is a national trade association dedicated to promoting the awareness and understanding of fixed annuities, as well as educating the public, policy makers, the media, and other interested parties about the benefits fixed annuities provide in securing guaranteed lifetime income for those in or planning for retirement. Members of NAFA include more than 80 insurance carriers and independent marketing organizations that, in turn, represent over 200,000 insurance producers and financial professionals who sell fixed annuities.

² NAFA’s comments address the IID’s proposed amendments to Rule 191, Chapter 15, “Unfair Trade Practices” of the Iowa Administrative Code; we do not address Item 9 of the proposed rulemaking: the adoption of a new rule 191-50.104(502), establishing best interest obligations in the brokerage business.

Accordingly, NAFA supports the adoption of the IID's proposed amendments to rule 191-15.72 – 191.15.78 and applauds the Division's efforts to bring its rules in line with the 2020 iteration of the NAIC's Model #275.

We would, however, note two instances where the Division's proposed rulemaking deviates somewhat from the model regulation and would respectfully recommend the Division make the following modifications.

First, the Division did not include in its proposed amendments an important drafting note that is included in Model #275 related to an insurer's responsibility to identify and eliminate sales contests, quotas, bonuses, and non-cash compensation based on the sale of specific annuities within a limited period of time (see note following Section 6.C.(2)(h) of the model regulation). We are pleased that the proposed Iowa rule adopts subparagraph (h) in its entirety, which provides some clarity as to what the requirements of the subparagraph is *not* intended to prohibit, i.e., the receipt of health insurance, office rent, retirement benefits or other employee benefits so long as they are not based upon the volume of sales of a specific annuity within a limited period of time. However, the drafting note in the model regulation provides critical additional clarity around what the requirements of subparagraph (h) are also not intended to prohibit – namely general incentives regarding sales of an insurance company's products where there is no emphasis on a particular product.

To ensure a greater understanding of the business practices that this prohibition is intended to address, NAFA suggests amending proposed IAC 191-15.75(3)b.(8) as follows:

(8) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time, **nor are the requirements of this subparagraph intended to prohibit general incentives regarding the sales of an insurer's products where there is no emphasis on any particular product;** and ...

In the alternative, having heard Commissioner Ommen's remarks during today's conference call public hearing, we would support the issuance of an Insurance Bulletin by the IID that would provide this additional clarification.

Second, the NAIC – through its Annuity Suitability (A) Working Group – gave great attention to how to formulate this new best interest standard and, of course, ultimately determined that to act in the best interest of a consumer required producers to not place the producer's or the insurer's financial interest *ahead of* the consumer's interest and to make annuity recommendations that a producer would have a

reasonable basis to believe *effectively address* the consumer’s financial situation, insurance needs, and financial objectives. While the actual amendments to rule 191, Chapter 15 follow this articulation, the “Purpose and Summary” included in the Division’s Notice of Intended Action (ARC 4998C) expresses a slightly different standard, stating that the new standard requires financial professionals to put the consumer’s interest “first” and to only make recommendations that “match” a particular Iowan’s needs, objectives and situation. NAFA is concerned that using different language in the preamble to the rule may cause unnecessary confusion and recommends conforming the language of the Notice to the language of the rule itself.

We believe that these are modest suggestions that would line up the proposed amendments to Rule 191, Chapter 15 with Model #275. NAFA appreciates the opportunity to submit these comments and hopes you find them useful. We would be happy to provide additional information or answer any questions you may have.

Respectfully submitted,

Charles J. Divencenzo, Jr.
NAFA President and CEO

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NAFA General Counsel and Director of Government Affairs