



Suitability & Best Interest (Annuities)

This guide is derived from NAIC Model Regulations, Acts, and/or Bulletins. Because states independently determine whether to adopt NAIC Models—and may do so in whole, in part, or with state-specific modifications—requirements can vary by jurisdiction. CEFLI Oversight Guides provide checklists of potential oversight elements to help support regulatory compliance. The guides and any referenced resources are not legal advice. CEFLI Member Companies should ensure their oversight programs reflect their specific product portfolios, distribution strategies, risk tolerances, internal controls and prior market conduct examination findings. Member Companies should carefully evaluate and incorporate unique state regulatory requirements, including any deviations from NAIC Models, in the states where they conduct business.

Helpful Resources

- [NAIC Market Regulation Handbook 2025, Volume 1-IV](#)
- [NAIC Suitability in Annuity Transactions Model Regulation \(#275\)](#)
- [NAIC Life Insurance Illustrations Model Regulation \(#275\) Adoption Chart](#)
- [Suitability of Sales of Life Insurance and Annuities NAIC Summary \(LI-55\)](#)
- [FAQ Document \(Adopted by the Life Insurance and Annuities \(A\) Committee on July 19, 2021\)](#)
- [Annuity Best Interest Guidance and Considerations \(Adopted by the Annuity Suitability Working Group on November 5, 2025 regarding the safe harbor provision\)](#)

Scope of the Regulation

- **Includes.** The regulation includes annuity products unless otherwise exempted.
- **Excludes.** The regulation excludes direct response solicitations with no recommendation based on information collected from the consumer, contracts to fund benefits plans under ERISA or the IRC, government or church plans, nonqualified deferred compensation arrangements under an employer or plan sponsor, settlements and prepaid funeral contracts.

Duties of Producers – Best Interest Obligations

This section summarizes the Duties of Producers under the Model Regulation. This content is provided since the insurer's supervisory system relies on an understanding of the producer responsibilities.

- Care Obligation.** The producer must act in the best interest of the consumer without placing their interests ahead of the consumer. This is accomplished by satisfying four obligations. The first obligation is the Care Obligation. The producer must exercise reasonable diligence, care and skill to know the customer's financial situation and needs, understand the options available, believe the recommendation to be appropriate (i.e., the consumer would benefit from certain features of the annuity) and the producer must communicate the basis of the recommendation to the consumer. Model section 6.A.(1)(a).
- Consumer Profile.** Consumer Profile information must be collected. Model section 6.A.(1)(b).
- Surrenders or Exchanges.** Regarding an exchange or replacement, the producer must consider whether the consumer will incur a surrender charge or new surrender schedule, lose benefits, have increased fees, whether another annuity exchange or replacement took place in the last 60 months and whether the consumer will substantially benefit from the transaction. Model section 6.A.(1)(j).
- Disclosure Obligation.** The second obligation is the Disclosure Obligation. The producer must use Appendix A (or a similar form per section 6.A.(2)(a) to disclose the scope, terms and relationship of the producer (section 6.A.2.a.i.) as it relates to the transaction, the products the producer is authorized to sell per section 6.A(2)(a)(ii),



who the producer is authorized to sell products for per section 6.A(2)(a)(iii), the sources and types of compensation the producer will receive per section 6.A.(2)(a)(iv) and the consumer's right to request additional information regarding the producer's compensation per section 6.A.(2)(a)(v).

- Compensation Disclosure.** If the consumer asks for more information regarding the producer's compensation, the producer must provide the information and reasonably estimate the amount of the compensation, the frequency of compensation and the amount (a range may be used) of compensation per section 6.A.(2)(b).
- Information on Annuity Features.** The producer must have a reasonable basis to believe the consumer has been informed of various features of the annuity (i.e., the potential surrender period and surrender charge, potential tax penalty (if the consumer sells, exchanges, surrenders or annuitizes the annuity), mortality and expense fees, investment advisory fees, any annual fees, potential charges for any features of riders or other options of the annuity, limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance and investment components and market risk per section 6.A.(2)(c).
- Conflict of Interest Obligation.** The third obligation is the Conflict of Interest Obligation. The producer must identify and avoid or reasonably manage and disclose material conflicts of interest per section 6.A.(3).
- Documentation Obligation.** The fourth obligation is the Documentation Obligation. The producer must make a written record of any recommendations and the basis for the recommendation per section 6.A.(4)(a) and obtain the consumer's signed statement per section 6.A.(4)(b) using Appendix B (or a similar form) if the consumer refuses to provide consumer profile information. The disclosure must note the consumer's understanding of the ramifications.
- Non-recommended Transactions.** If the consumer decides to enter into a transaction that was not recommended by the producer, the producer must obtain the consumer's signed statement using Appendix C (or a similar form) acknowledging the recommendation was not recommended per section 6.A.(4)(c).
- Impacted Producers.** The above requirements apply to all producers who exercised material control or influence in the making of a recommendation and who will receive direct compensation as a result of the recommendation or sale, regardless of whether such producers had any direct contact with the consumer per section 6.A.(5).

Duties of Insurers – Supervision System, in General

- Issuing Annuities.** An insurer may not issue a recommended annuity unless there is a reasonable basis to believe the annuity would address the consumer's specific financial situation, insurance needs and financial objectives, based on the consumer profile information per section 6.C.(1).
- Producer Education Regarding the Regulation.** The insurer must have and maintain a supervision system reasonably designed to achieve the insurer's and the producer's compliance with the regulation. As part of the supervision system the insurer must establish and maintain reasonable procedures to inform producers of the requirements of the regulation and such information must be incorporated into relevant producer training manuals per section 6.C.(2)(a). These requirements are also referenced below, in the "Producer Training Related Responsibilities" section of this guide.
- Producer Product Training Standards.** As part of the supervision system the insurer must establish and maintain standards for producer product training and comply with section 7 (the 4-credit annuity training requirement) of the regulation per section 6.C.(2)(b). This requirement is also referenced below, in the "Producer Training Related Responsibilities" section of this guide.
- Producer Product Training Materials.** As part of the supervision system the insurer must provide producers with product-specific training and training materials explaining the material features of its annuity products per



section 6.C.(2)(c). This requirement is also referenced below, in the “*Producer Training Related Responsibilities*” section of this guide.

- Review of Recommendations.** As part of the supervision system the insurer must establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis for the recommendation and that the product would effectively address the particular consumer’s financial situation, insurance needs and financial objectives. (Note: A screening system for the purpose of identifying selected transactions for additional review may be used. Such screening may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review of only of the transactions identified for additional review based on selection criteria). Refer to section 6.C.(2)(d).
- Identification of Noncompliance.** As part of the supervision system the insurer must establish and maintain reasonable procedures to detect recommendations that are not in compliance with Subsections A, B, D and E. (Note: This could include such activities as confirmation of the consumer’s consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations and programs of internal monitoring. Sampling procedures may be used. Confirmation of the consumer profile information or other required information may be obtained after issuance or delivery of the annuity.) Refer to section 6.C.(2)(e).
- Producer Disclosures to the Consumer.** As part of the supervision system the insurer must establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided the consumer with the information required under section 6.C.(2)(f).
- Consumer Refusals.** As part of the supervision system the insurer must establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information per section 6.C.(2)(g).
- Sales Contests/Quotas/Bonuses.** As part of the supervision system the insurer must establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time per section 6.C.(2)(h).
- Written Report.** As part of the supervision system the insurer must annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any, per section 6.C.(2)(i).
- Corrective Action.** An insurer is responsible for taking appropriate corrective action in the event its system of supervision falls short (regardless of whether annuity sales supervision is conducted by the insurer or is contracted to a third party) per section 6.C.(3)(a).

Duties of Insurers – Supervision System Specific to the Safe Harbor.

- Alternative Standards.** If the insurer is relying on the safe harbor provision of the regulation, the alternative comparable standards must satisfy the requirements under the regulation. Refer to section 6.E.(1) and the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Issuing Annuities.** If relying on the safe harbor provision, the insurer must still comply with the requirements of section 6.C.(1) which states that an insurer may not issue an annuity unless there is a reasonable basis to believe the annuity would effectively address the particular consumer’s financial situation, insurance needs and



financial objectives based on the consumer's profile information. Refer to sections 6.C.(1) & 6.E.(2).

- Monitoring Responsibility.** If relying on the safe harbor provision, the insurer must take active steps to validate the supervising entity is complying with its obligations. Waiting for complaints or regulatory audit findings is not adequate supervision. Effective monitoring can include having contractual provisions with the third parties that convey the insurer's expectations and require the supervising entity to perform contracted responsibilities. Refer to the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Monitoring Elements.** If relying on the safe harbor provision, the insurer's monitoring program must contain two elements: 1.) ongoing monitoring and 2.) regular audits. Refer to sections 6.C.(1), 6.C.(3)(b), 6.E.(3) and the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Ongoing Monitoring.** To support the ongoing monitoring of the entity responsible for supervising producers the insurer should use information collected in the normal course of an insurer's business. This may include the use of due diligence/compliance questionnaires. Questionnaires may be standalone safe harbor questionnaires or wrapped into a larger vendor process that could include cybersecurity, state specific requirements, and other topics. Refer to the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Ongoing Monitoring – Periodic Engagement.** To support the ongoing monitoring of the entity responsible for supervising producers the insurer may have periodic engagement with the supervising entity's compliance and/or legal team. Refer to the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Ongoing Monitoring – Data Analytics.** Ongoing monitoring may include the use of data analytics. The insurer should categorize sales data to analyze it from a risk perspective. The categorized data could be sorted by number of contracts and by premiums to get a risk-informed review of producers and broker-dealers or entities for key elements such as sales to older consumers, free-look cancellations, early surrenders, replacements, and others. Reviewing this data may also inform the insurer's audit program, as referenced below, or may otherwise inform the nature of the due diligence an insurer conducts. Refer to the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Exam Findings.** To support the ongoing monitoring of sales involving registered annuities, insurers can rely, in part, on regulatory exam findings that focused on the supervising entity's annuity sales. Refer to the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Regular Audits by the Insurer.** To support regular audits of the entity responsible for supervising producers, the insurer should regularly conduct audits, as appropriate, to verify the contracted function is being properly performed. An effective audit program includes selecting an adequate sample size on a frequent basis and escalation procedures for any supervising entity that fails to respond, up to and including termination of the relationship. The audit frequency should be risk-based, based on the volume that comes through the entity as well as other risk factors available to the insurer. Generally, an insurer should audit a supervising entity with regular frequency. The audit frequency and depth will depend on the strength of the other elements of the monitoring program. Post-audit, the insurer should ensure the supervising entity corrects and identifies the root cause of any identified problem. Refer to sections 6.C.(3)(b), 6.E.(3)(a) and the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Certification – Contractual Performance.** If the insurer is relying on the safe harbor provision of the regulation the insurer must annually obtain a certification from the partner that assumed contractual performance of the insurer's obligation under section 6.C.(1). The certification must be from a senior manager who has responsibility for the contracted function. The manager must have a reasonable basis to represent (and must represent) that the function is being properly performed. Refer to section 6.C.(3)(b) and the *Annuity Best Interest Regulatory Guidance and Considerations* document.



Note: CEFLI offers a Clearinghouse service that streamlines the certification process for insurers. More information can be [found here](#).

- Certification - Comparable Standards.** Insurers should also require certifications to cover the entity's compliance with a comparable standard since certifications serve other purposes for insurers. A meaningful certification is detailed and active. Refer to the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Providing Data.** If relying on the safe harbor provision, insurers must provide supervising entities with sufficient data to make informed decisions. This may include reports on customer demographics, annuity features, and other relevant factors. Data sharing ensures both parties can oversee transactions effectively without duplicating efforts. Information the insurer might share with the supervising entity includes the following:
 - Total contracts issued through the producer over the period, including number and type of annuity;
 - Amount of commissions paid for each sale to that producer over the period;
 - Number of internal replacements initiated by the same producer;
 - Number of contracts issued where the consumer was older than a certain age;
 - Number of contracts issued with a death claim pending or complete;
 - Number of consumer complaints or lawsuits received by the insurer related to the producer;
 - Number of contracts for the producer that were surrendered less than 2 years from policy issue, between years 2-5, between years 6-10, and more than 10 years from issuance; or
 - Whether any surrenders were subject to surrender charges.Refer to section 6.E.(3)(b) and the *Annuity Best Interest Regulatory Guidance and Considerations* document.
- Onboarding Diligence.** Insurers should reasonably verify that the safe harbor conditions are satisfied by third party supervisors during the onboarding process by reviewing policies and procedures to ensure the compliance arrangement will satisfy the safe harbor through an adequate supervisory system. Insurers should review the policies of the supervising entities to see how they address the unique features of annuity contracts, including their long-term guarantees and surrender charges. An insurer should also review regulatory actions against the supervising entity. For companies that sell both registered and unregistered annuities, one aspect of this inquiry may be to understand if the policies that the broker-dealer or entity developed for the sale of registered annuities also apply to the sale of unregistered annuities (with modest modifications for the product differences). If they do, this is useful evidence on which the insurer may rely. Refer to the *Annuity Best Interest Regulatory Guidance and Considerations* document.

Producer Training Related Responsibilities Impacting Insurers

- Producer Education on the Regulation.** As part of the supervision system (referenced prior) the insurer must establish and maintain reasonable procedures to inform its producers of the requirements of this regulation per section 6.C.(2)(a).
- Producer Training Manuals.** As part of the supervision system (referenced prior) the insurer must incorporate the requirements of the regulation into relevant producer training manuals per section 6.C.(2)(a).
- Producer Product Knowledge.** A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer complies with the insurer's standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply. As part of the supervision system (referenced prior) the insurer must provide product-specific training and training materials which explain all material features of its annuity products, to its producers per sections 6.C.(2)(c) and 7.A.
- Producer Training Standards.** As part of the supervision system (referenced prior) the insurer must establish and maintain standards for producer product training per sections 6.C.(2)(b) and 7.A.



- Producer 4-Credit Training.** Producers shall complete a one-time four (4) credit training course approved by the Department of Insurance and provided by a Department of Insurance-approved education provider. The insurer must verify that a producer completed the 4-credit annuity training course before allowing the producer to sell an annuity product issued by the insurer. Insurers may satisfy their responsibilities by obtaining certificates of completion of the training course or obtaining training completion reports (provided by Commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers) per sections 6.C.(2)(b), 7.B.(1) and 7.B.(11).

Recordkeeping

- Record Retention.** Insurers, general agents, independent agencies and producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions consistent with state record retention requirements. An insurer is permitted, but is not required, to maintain documentation on behalf of a producer per section 9.A.