STATE LEGISLATIVE BRIEF

NAIC
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

January 2024

The NAIC Annuity Suitability "Best Interest" Model Regulation

- *The NAIC's Suitability in Annuity Transactions Model Regulation (#275) is designed to protect consumers from abusive and predatory practices by life insurance and annuity producers. Nearly every state has adopted some version of the model.*
- *In 2020, the NAIC adopted revisions to the model that incorporate a "best interest" standard of care that requires producers to put the consumer's interest ahead of their own. The revisions align with the SEC's Regulation Best Interest.*
- *As millions of people are set to retire and federal policymakers increasingly look to insurance products to address the lifetime income needs of retirees, state legislators and regulators must demonstrate that they have the authorities and tools necessary to oversee this marketplace.*

Background

Ensuring suitable sales of life insurance and annuity products to consumers of all ages is part of the NAIC's core mission of protecting the public interest and facilitating the fair and equitable treatment of insurance consumers. To this end, the NAIC initially adopted the *Suitability in Annuity Transactions Model Regulation* in 2003 and has updated it several times since then. Nearly every state has adopted some version of the model.

In February 2020, the NAIC made significant revisions to the model, following extensive deliberations and input from state insurance regulators, consumer representatives, and the insurance industry. The revisions incorporate a "best interest" standard that requires all recommendations by agents and carriers to be in the best interest of the consumer and that consideration of the consumer's interest must always be placed ahead of any financial interest that the agent or carrier may have in the transaction.

To reflect this "best interest" duty, the regulation requires producers and insurers to satisfy requirements outlined in a care obligation, a disclosure obligation, a conflict-of-interest obligation, and a documentation obligation. The revisions require agents to disclose and answer questions about their role in the transaction, their compensation, and any material conflicts of interest. The regulation codifies, as a requirement, the good business practice of carefully and clearly explaining to the consumer the basis for a recommendation. This requirement is designed to ensure consumers understand why a product is consistent with their particular financial needs, situation, and objectives. Agents and carriers are required to document, in writing, any recommendation and the justification for such recommendation. Each of these new requirements strengthens the regulatory framework of consumer protections already available under the existing rule.

The revised model is also designed to be consistent with the U.S. Securities and Exchange Commission's "Reg BI," which was finalized in June 2019. Together, these complementary state and federal initiatives seek to bolster protections for consumers, especially low- and moderate-income savers and those seeking guaranteed lifetime income in retirement through annuities.

Adoption/Enactment

✓ As of this update, **41 jurisdictions** have implemented the *Suitability in Annuity Transactions Model Regulation (#275)* revisions: AL, AK, AZ, AR, CO, CT, DE, FL, GA, HI, ID, IL, IA, KS, KY, ME, MD, MA, MI, MN, MS, MT, NE, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, **UT**, VA, WA, WV, WI, and WY.

*States in **red** are new additions since the last update to the legislative brief.*

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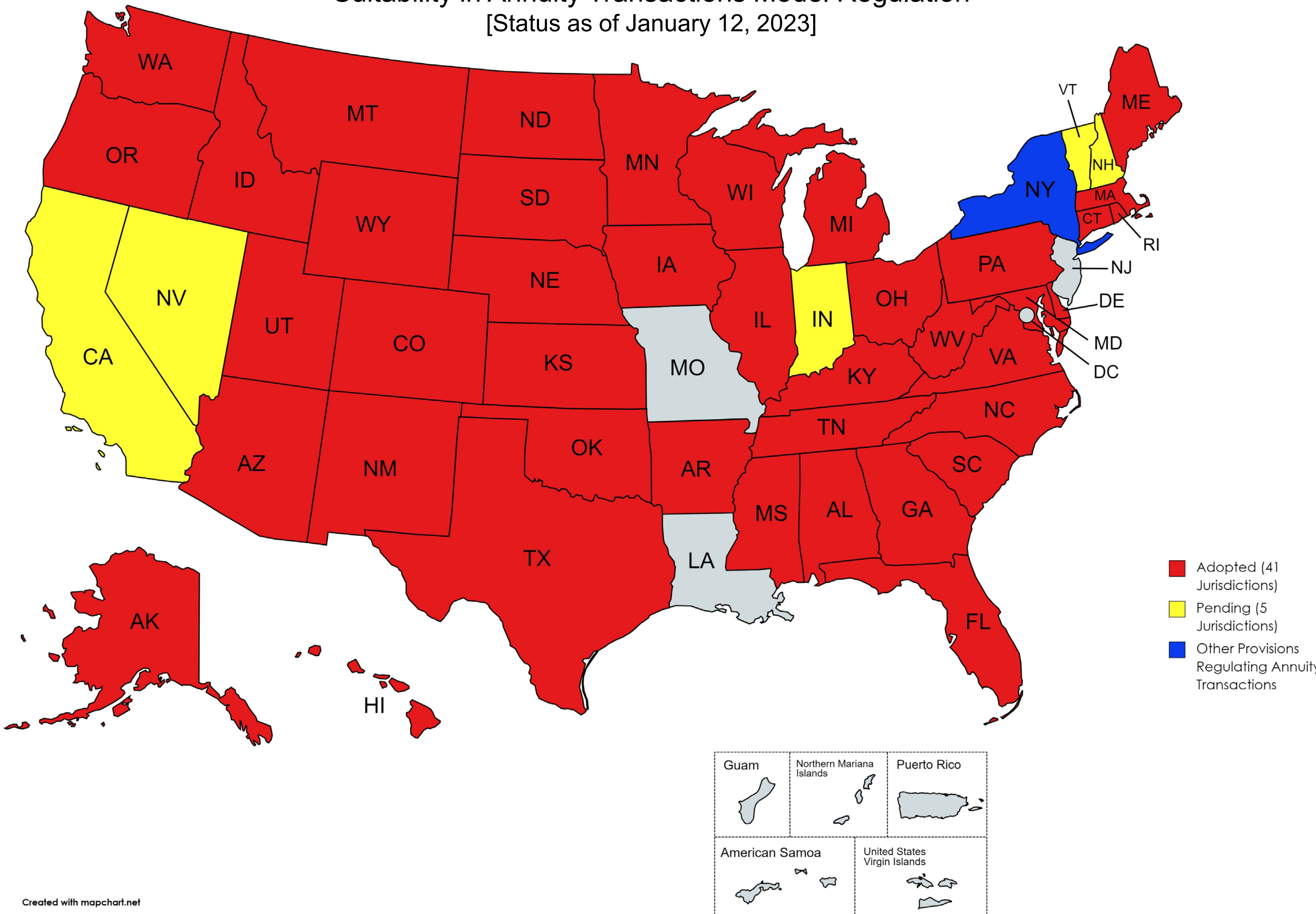
Implementation of 2020 Revisions to Model #275
Suitability in Annuity Transactions Model Regulation
[Status as of January 12, 2023]



Disclaimer: This map represents state action or pending state action regarding NAIC amendments to the model(s). This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of NAIC amendments to the model(s) or whether a state meets any applicable accreditation standards.