May 3, 2018

National Association of Insurance Commissioners
Attn: Jolie Matthews
444 North Capitol Street, NW
Washington, DC 20001-1509

Re: NAIC "Suitability and Best Interest Standard of Conduct in Annuity Transactions Model Regulation"

Dear Ms. Matthews:

AARP is pleased to respond to NAIC's request for comments on its proposed "Suitability and Best Interest Standard of Conduct in Annuity Transactions Model Regulation." The changing economy, technology and the financial needs of millions of families are rapidly transforming the financial services industry. State and Federal regulatory officials are to be commended for starting to update and harmonize the rules and procedures that guide the delivery of financial services to millions of American families.

AARP welcomes the opportunity to be part of this process and intends to play an active role educating and informing all Americans age 50 and older on the financial products and practices that are in their best interests. AARP believes that the NAIC model regulation should ensure that annuity investors are protected from the potential harmful effects of conflicted advice. AARP, with its nearly 38 million members in all 50 States and the District of Columbia, Puerto Rico and the Virgin Islands, represents millions of individuals who are saving for their retirement. These individuals should be able to trust that investment advice they receive is free from financial conflicts of interest. While the NAIC model requires certain changes detailed below to strengthen existing standards, further changes are necessary to improve those standards and must go well beyond a suitability standard.

I. The Proposed Regulation Is Confusing Because It Mixes A Suitability Standard With A Fiduciary Standard.

The proposed model regulation is confusing because it attempts to maintain the outdated suitability standard and then graft a best interest standard on top. This leaves all stakeholders with the question: what exactly are the rules and requirements? Indeed, with this approach, some insurers and producers will continue to operate under the less stringent suitability standard because they will interpret the regulation as retaining suitability as the primary standard.

AARP proposes that a suitability standard is not enough and does not protect investors from the potentially detrimental impact of conflicted advice. The model regulation should amend the definition of best interest to include all of the suitability factors as well as a statement that compliance with the suitability factors alone is not sufficient to meet the

best interest standard. Moreover, although AARP agrees that the least expensive option *per se* does not meet the best interest standard, the model regulation should require a cost benefit analysis as part of any determination of whether an annuity product is in the best interest of the consumer. Indeed, for some consumers, their best interest may be not to purchase any annuity product. For example, if the amount to invest is extremely modest, the fees and commissions could diminish any benefit to the consumer.

Moreover, we submit that the NAIC model regulation should adopt the state trust definition of best interest (which the Employee Retirement Income Security Act (ERISA) also adopted). Such a definition is of long-duration and understandable to industry stakeholders and consumers. An industry professional would have to make recommendations both "solely in the interest" of the consumer and with the "care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use." Quite simply, it is not enough for the adviser to solely rely on their own opinion. The professional must assess what a prudent expert would recommend. Finally, the NAIC model regulation should prohibit or limit industry professionals from having material conflicts of interest that may taint their recommendations; such an amendment would be consistent both with state trust law and ERISA.

II. NAIC's Model Regulation Must Address Two Distinct, But Related, Problems.

A. The NAIC's model regulation should ensure that annuity investors receive advice that is in their best interests

Consumers and regulators face a fundamental problem – there are tens of thousands of financial products, many of which contain complex rules, requirements, and fees. Regulators face the enormous challenge of ensuring that these products are fairly structured and sold, and that consumers understand all of the key terms and conditions of these products. Where there are multiple standards of conduct dependent merely upon which investment and for what purpose the investment will be used, the result can be not only continued investor confusion and reduced personal savings, but also an unfair system which only the most sophisticated investors can navigate.

Research has found that investors typically rely on the recommendations they receive from producers. Any trust that the majority of investors place in producers is encouraged by industry marketing. This leaves investors vulnerable not only to fraud, but also to those producers who would take advantage of that trust in order to profit at the expense of investors. Investors who place their trust in salespeople who market services as "advisers" can often end up paying higher costs for higher risk or underperforming investments that satisfy a suitability standard, but not a fiduciary standard. Most middle-income investors cannot afford to lose this money; every penny

counts.[1] These are not theoretical issues and the risk includes direct harm to the retirement savings of investors. For example, retiree Janice Winston testified at a Senate briefing on the importance of unconflicted advice. In her testimony she shared, "I thought that anyone I paid to advise me would be guided only by my best interests. This is important, because I really have no good way to evaluate whether my investments are performing well or whether I am paying too much in fees. Imagine my surprise when I learned that my investment adviser was not necessarily required to act in my best interest."[2]

In addition, AARP recently spoke with Anna Duressa Pujat, a retired university librarian who contributed to her employer provided retirement account for 20 years before retiring.[3] When Anna retired, she rolled her savings into a ROTH IRA and was ultimately ripped off twice by unscrupulous advisers. Anna states, "I want people to know that investors often don't know what is happening with their accounts until something goes wrong… even with the information at one's disposal, it can be hard to fully comprehend." Anna and her husband shared that outside of their home, her retirement accounts were their greatest financial assets and they depend on this money for their basic needs and financial security. After suffering the financial losses from exorbitant service fees and inappropriate and risky investments with her retirement funds from previous advisers, Anna recently shared, "Having the fiduciary rule would give me confidence that I am receiving the financial guidance I know I need."

AARP's research indicates that investors do not understand the different legal standards that apply to different types of financial professionals. Investors expect that financial professionals are required to act in the customer's best interest. Further, older Americans may not be able to tell you the precise legal definition of fiduciary but they have clear views on what they expect from financial professionals.

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[1] *See* Craig Copeland, *2015 Update of the EBRI IRA Database: IRA Balances, Contributions, Rollovers, Withdrawals, and Asset Allocation*, EBRI ISSUE BRIEF NO. 437, at Figures 2, 4, 6, 19 (Sept. 2017), https://www.ebri.org/pdf/briefspdf/EBRI_IB_437_IRAs.12Sept17.pdf (finding that the average IRA account balance in 2015 was $99,017, but 45% of those owning IRAs had less than $25,000 in their accounts at year-end 2015; accounts were largest closest to retirement age); Alicia H. Munnell & Anqi Chen, *401(k)/IRA Holdings in 2016: An Update from the SCF* (Issue Brief No. 17-18),Ctr. for Retirement Research at Boston College (Oct. 2017), http://crr.bc.edu/briefs/401kira-holdings-in-2016-an-update-from-the-scf/ (households approaching retirement had approximately $135,000 in 401(k) and IRA assets which provides only $600 per month in retirement).

[2] Pension Rights Center, Retiree Janice Winston speaks out in support of strong fiduciary regulations (September 13, 2013), http://www.pensionrights.org/newsroom/speeches-statements/retiree-janice-winston-speaks-out-support-strong-fiduciary-regulation-0

[3] See Declaration of Anna Duressa Pujat, attached to AARP's Motion to Intervene in Chamber of Commerce v. U.S. Dep't of Labor, Case No. 17-10238 (5th Cir. filewd Apr. 26, 2018).

In six state specific opinion polls conducted by AARP, AARP asked residents age 50 plus questions related to the various investor and consumer reforms.[4] Respondents overwhelmingly favored requiring financial professionals to put the consumer's interest ahead of their own when making recommendations. In addition to a fiduciary duty of care, respondents favored upfront disclosure of fees, commissions, and potential conflicts that could bias advice. The level of support for this commonsense reform ranged from a low of 88 percent (Arkansas) to a high of 95 percent (Indiana).[5] Moreover, not only do investors believe that investment advice should be provided in their best interests, but the financial services industry generally agrees. *See, e.g.,* SIFMA Comment Letter 506 to Department of Labor (DOL) ("The industry … shares that goal" "to ensure financial services providers are looking out for their customer's best interest");[6] American Council of Life Insurers Comment Letter 621 to DOL ("We share the Department's interest in seeing that plan sponsors, plan participants and Individual Retirement Accounts (IRA) owners receive advice that is in their best interest.").[7] For decades, registered investment advisors and certified financial planners have successfully and profitably provided fiduciary advice. Evidence of industry compliance, innovation and competitiveness is already apparent and investors are directly benefiting from this change.

B. The NAIC's Model Regulation Should Acknowledge That the Recommendation of Variable and Fixed Indexed Annuities Are, For Most Consumers, Not in Their Best Interest.

The NAIC states that the "purpose of this regulation is to require insurers to establish a system to supervise recommendations…involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed." While we applaud the NAIC for directly requiring insurers to be involved and take action to oversee their producers, we note that it is insurers who design the annuity products that may or may not be in the consumers' best interests. We urge the NAIC to consider adding additional requirements directly on insurers to ensure that the products they offer meet the insurance needs and financial objectives of consumers.

As consumers move closer to retirement, they may be more vulnerable to the negative impact of advice that is not in their best interests for three reasons: (1) the assets they

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[4] To view the state-specific surveys go to http://www.aarp.org/money/scams-fraud/info-04-2010/finprotect_states.html.
[5] *Id*.
[6] https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/00506.pdf.
[7] https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/00621.pdf.

have to invest are larger;[8] (2) they may lack strong financial literacy skills;[9] and, (3) reduced cognition may affect financial decision-making.[10] In addition, the detrimental effects of advice that is not in the consumers' best interests may have the most negative potential impact on individuals with modest balances,[11] as they have fewer economic resources; any additional costs or losses diminish what little savings they have. For all these reasons, investors close to retirement are especially vulnerable as they make significant and often one-time decisions to move retirement savings from more protected employer-based plans into significantly less protected IRAs and insurance annuities.

In particular, the problem of distinguishing between fixed versus variable annuities looms large for our members as they move closer to retirement. Millions of households look at insurance products as a way to produce a stream of income to protect themselves, or their loved ones, when they reach a specified age or upon a specific event. Most often, they think of single premium immediate annuities,[12] not variable or fixed indexed annuities whose value varies with the financial markets or the particular investment group to which they are tied.[13] Variable or fixed indexed annuities may be appropriate for certain higher-income households or households with fairly unique financial needs, but the majority of American families would not benefit, and indeed may be financially worse off, with the purchase of such annuities. These annuity products generally come with high fees,[14] long surrender periods -- which may make them

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[8] *Id*.

[9] Annamaria Lusardi, et al., *Financial Literacy and Financial Sophistication in the Older Population: Evidence from the 2008 HRS* (Sept. 2009), http://www.mrrc.isr.umich.edu/publications/papers/pdf/wp216.pdf ("In view of the fact that individuals are increasingly required to take on responsibility for their own retirement security, this lack of [financial] knowledge has serious implications."); *see also* Annamaria Lusardi & Olivia S. Mitchell, *Financial Literacy and Planning: Implications for Retirement Wellbeing*, Nat'l Bureau of Econ. Research Working Paper 17,078, at 6 (May 2011), http://www.nber.org/papers/w17078.pdf (one-third of survey respondents did not understand compound interest, one-quarter did not understand inflation implications and half did not know about risk diversification).

[10] *E.g*., Keith Jacks Gamble, et al., *How Does Aging Affect Financial Decision Making?* (Issue Brief No. 15-1), Ctr. for Retirement Research at Boston College, at 1, 6 (Jan. 2015), http://crr.bc.edu/wp-content/uploads/2015/01/IB_15-1-508.pdf (declining cognition begins to accelerate after age 60 and has a noticeable effect on financial literacy; "given the increasing dependence of retirees on 401(k)/IRA savings, cognitive decline will likely have an increasingly significant adverse effect on the well-being of the elderly."); *see generally* Tara Siegel Bernard, *As Cognition Slips Financial Skills Are Often the First to Go,* NEW YORK TIMES (Apr. 24, 2015), http://www.nytimes.com/2015/04/25/your-money/as-cognitivity-slips-financial-skills-are-often-the-first-to-go.html?_r=0 ("A person's financial decision-making ability peaks at age 53, or more generally, in their 50s").

[11] *See* n. 1, *supra*.

[12] Conrad de Aenlle, *Annuities Not for Everyone, But They Have a Place*, NEW YORK TIMES (Mar. 12, 2014), http://www.nytimes.com/2014/03/13/business/retirementspecial/annuities-not-for-everyone-but-they-have-a-place.html?_r=0.

[13] *Id.*; Suze Orman, Financial Solutions for You, *Truth About Annuities*, http://apps.suzeorman.com/igsbase/igstemplate.cfm?SRC=MD012&SRCN=aoedetails&GnavID=84&SnavID=29&TnavID&AreasofExpertiseID=107; Tim Maurer, *Annuities: More cons than pros?*, CNBC (Dec. 3, 2013), http://www.cnbc.com/2013/12/03/annuities-more-cons-than-pros.html.

[14] *Id*.

unsuitable as investments for most seniors due to their illiquidity,[15] and different tax consequences than other investments.[16] Moreover, comparing and choosing suitable products can be difficult for retirement investors due to the complexity of the products.[17] Yet, insurers continue to develop and sell new and more complex variable annuities – including to low and moderate income households for whom these products may be financially inappropriate.

Given the complexity, illiquidity, and significant fees associated with variable annuities, and the risk to individual retirement investors as they attempt to manage their own retirement security, it is crucial that recommendations to place retirement assets in these products should be made in the best interest of the retirement investor. Indeed, we urge the NAIC to prohibit insurers, not just producers, from offering variable annuities for sale unless they can demonstrate it is in the consumer's best interest, including taking into account certain criteria such as income and asset requirements[18]

III. AARP Strongly Supports An Overarching Best Interest Standard For Producers Providing Personalized Investment Advice To Consumers.

AARP strongly recommends the adoption of the overarching core principle that if a producer (including an insurance agent, an adviser or broker) is providing personalized advice to consumers, the producer must always act in the best interest of the consumer, regardless of the marketing strategy, business model, or registration status. This standard is essential to ensure a level and transparent marketplace for investors seeking advice on how best to safeguard their hard-earned financial assets. Today, producers across multiple product lines perform identical or similar services though they may use varying titles.

To make this standard meaningful and fair, we recommend that NAIC ensure that all terms and conditions be as clear and understandable as possible. The rules must be understandable both to insurers and producers as well as to investors. If producers are to be held to a best interest standard, NAIC must make sure that producers understand what the standard is and their necessary actions for compliance. In addition, NAIC must ensure that insurers and producers provide clear and understandable disclosures to potential investors to ensure that they understand all key terms and conditions and rights and responsibilities in advance of any contractual agreement.

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[15] Orman, *supra* n.11; Maurer, *supra* n.11; William Baldwin, *Deferred Variable Annuities: Pros and Cons*, FORBES (Sept. 8, 2014), http://www.forbes.com/sites/baldwin/2014/09/08/deferred-variable-annuities-pros-and-con/#49203a1975ca**;** Eve Kaplan**,** *9 Reasons You Need To Avoid Variable Annuities***,** FORBES (July 2, 2012), http://www.forbes.com/sites/feeonlyplanner/2012/07/02/9-reasons-you-need-to-avoid-variable-annuities/#2be518754d62.
[16] *Id.*
[17] Kaplan, *supra* n.13 (disclosures are not user friendly).
[18] *See* de Aenelle at n. 10.

IV. Uniform Application Of A Fiduciary Standard Across Regulatory Bodies Is In The Best Interest Of Consumers.

We believe reviewing the fiduciary duty standard of the federal retirement law—, ERISA—would be helpful to the NAIC's endeavor and should serve as a key model. ERISA is based on the common law of trusts and incorporates the requirements that the sponsor of a trust must act "solely in the interest of participants and beneficiaries" and "with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims." ERISA § 404, 29 US.C. § 1104. ERISA goes beyond the law of trusts to include all persons regardless of their title if they function as a fiduciary. ERISA has generally worked well with respect to employers who sponsor employee benefit plans and generally are required to act as fiduciaries when related to retirement plan administration or management. However, ERISA had been less clear on the extent to which third parties who handle plan assets are subject to the same "solely in the interest" and "prudence" standard as sponsors. The law makes clear that parties who exercise discretion always are fiduciaries, but not all parties accept responsibility or agree on what acts they engaged in.

In 2016, through the Fiduciary Regulations and a package of exemptions, the DOL attempted to update and make meaningful ERISA's longstanding fiduciary obligations for those who provide investment advice to consumers for retirement monies. Close to 100,000 AARP members took action in support of DOL's fiduciary rule clarification. However, in *U.S. Chamber of Commerce v. U.S. Dep't of Labor*, 2018 U.S. App. LEXIS 6472 (5th Cir. Mar.15, 2018), the court held that placing fixed-index annuities within a more restrictive exemption than the exemption governing other insurance products (PTE-84-24), competitively disadvantaged fixed-index annuities and, consequently, conflicted with the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 989J, 124 Stat. 1376 (2010). The court stated that only the NAIC and the states have the authority to regulate fixed index annuities. Consequently, NAIC's actions are crucial to protecting individuals'' retirement monies.

The expansion of individual responsibility for savings and planning have made regulatory efforts more urgent but the emergence of target date funds, index funds, and widespread technological usage has helped investors and the industry largely converge over who, how, when, and where to invest for long term savings and income protection. Currently, FINRA and the SEC are in the process of examining their rules and requirements as well, and are greatly influenced by changes in the ERISA and general investment marketplaces.

State insurance law has many nuances with variations among the States. Some states have a clearly defined higher duty of care that is applicable to insurance producers,

particularly independent agents and those within the scope of their agency. Accordingly, these rules should apply to all producers. Different or multiple titles should be prohibited so that producers do not evade compliance with these rules. The NAIC should strongly consider prohibiting producers from using titles that imply adviser status unless they actually provide recommendations in the consumer's best interest. AARP believes that the model regulation should act as a floor not a ceiling so that consumers do not lose protections that are more robust.

Many states agree that the fiduciary standard is needed to protect residents and deter potential exploitative practices. In fact, last year Attorneys General from across the country -- including Hawaii, Illinois, New York, North Carolina, Iowa, Oregon, Pennsylvania, Washington, and the District of Columbia -- issued letters urging the DOL to proceed with the rule that would require financial advisers to put the consumer's' best interests ahead of their own. Additionally, California, Missouri, South Carolina and South Dakota already impose a fiduciary standard on securities broker-dealers in their states. In response to recent efforts to dilute the DOL's fiduciary rule, Nevada enacted legislation to subject broker-dealers and investment advisers to a fiduciary standard, with the support of AARP Nevada. We expect more states to establish this standard going forward.

We note that the NAIC Model regulation only applies to individuals. AARP submits that the model regulation should apply to all sales of annuities including private and governmental retirement plans. As State and Federal regulators move to a best interest standard, the same rules should generally apply across sales of similar products to all persons and entities.

V. Insurance Producers Should Be Clearly Prohibited From Financial Incentives To Recommend Products; Must Maintain Detailed Documentation On Recommendations To Consumers; And Should Be Required To Complete Annual Seller Training And Oversight.

A. Disclose Fiduciary Status to Consumers.

Producers must be required to tell potential and engaged consumers if they are acting as a fiduciary and that acting as a fiduciary means they are acting solely in the consumer's best interest. The adviser must acknowledge in writing that she is a fiduciary and must agree to adhere to the best interest standard of care. For example, both the recommendation of a particular insurance company as well as a particular insurance contract must be prudent. This acknowledgement should be disclosed and delivered in writing to the consumer. The adviser should disclose any material conflicts of interest. Part of this discussion must include whether the producer only sells the products of one or several companies and one or several products of one or several

companies. If a producer only sells one firm's products or only one product, then the producer must clearly be required to minimize conflicts and provide additional disclosures. Finally, the producer's statements cannot be materially misleading.

B. Disclose Compensation to Customers.

As to compensation, the model regulation should require the following:

- The insurer and producer must disclose fees (commissions/compensation).
- Those fees/compensation must be reasonable.[19]
- The producer cannot receive any additional financial incentives such as trips, awards or bonuses.

C. Discuss and Document Consumer Needs.

Producers must be clearly required to ask consumers about their investing needs. While the proposed NAIC guidance lists many key questions, it does not provide sufficient explanation of how producers may and may not use the information. Notably, producers must be required to distinguish between fixed and variable annuity products. Most moderate or lower-income households are seeking an annuity for a fixed monthly payment. While households may be interested in payments that may rise with investment markets or inflation, they quickly lose interest when apprised that they also may receive reduced payments, pay additional fees, and be subject to substantial financial penalties for any product changes. Even fixed indexed annuities may contain wide variances in terms and conditions and should be treated more like variable annuities than fixed annuities. The NAIC guidance must clearly prohibit producers from recommending variable annuities to customers who do not fully understand all of the terms and conditions and for whom the product would neither be prudent nor in their best interest. Producers must be clearly required to document all of the customer's assets and needs, producer recommendations and all disclosures provided.

Again, as technology is rapidly changing almost all marketplaces, NAIC must add standards for paper and electronic documents and disclosures. Documents and disclosures should always be provided in paper form, days in advance, of any transaction.

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[19] A requirement to ensure the reasonableness of fees is nothing new. Whether a plan's fees are reasonable depends on the facts and circumstances relevant to an investor's particular situation (including but not limited to benchmarking, meaningful comparisons for the product, the consumer's risk tolerance, and the consumer's liquidity needs). The producer should obtain and consider all relevant information and then make a determination supported by that information.

Producers may ask to provide documents electronically, but in all circumstances, a summary of key documents and disclosures should be provided to consumers in paper form and the producer should obtain a signature or initial confirming receipt before any final contract adoption.

D. Discuss and Document Impartial Recommendations.

Producers must make any recommendations based on an impartial conduct standard. The producer, at a minimum, must clearly be required to recommend the best product that she sells. AARP submits that the language in the "best interest" definition concerning lowest price is unnecessary. "Best interest" has never meant only the sale of the lowest price policy. For example, a consumer may be willing to pay a higher price for a policy if the policy is more highly rated because the insurer has more capital reserves. If a consumer is particularly risk averse, a higher priced policy may make sense.

E. The NAIC Should Not Rely On Disclosure Alone To Manage Conflicts.

The best interest standard must include substantive prohibitions on conflicts of interest as opposed to simply disclosing conflicts of interest. Recent behavioral science studies have shown that disclosures largely are ineffective because they tend to increase conflict in advisers and make the investor more likely to trust the adviser and thus follow biased advice.[20] The NAIC should require insurers to eliminate practices that directly conflict with the best interest standard appropriate for personalized advice such as bonuses, competitions, and rewards. A best interest standard that does not require firms to prohibit incentives that reward and encourage advice that is not in investors' best interests is likely to be a best interest standard in name only.

In all sales the producer should be required to discuss all key terms and conditions, document the consumer's needs and any adviser recommendations, and obtain the consumer's signature or initials confirming that the consumer received the policy disclosures and agrees to the terms and conditions.

While we believe that disclosure alone is insufficient in minimizing conflicts of interest, we think investors will benefit from the development of a uniform pre-engagement disclosure document for producers, in addition to a true fiduciary standard. We encourage the NAIC to adopt a format for disclosures by producers that are uniform to

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[20] Sunita Sah, *Gray Matter The Paradox of Disclosure,* NEW YORK TIMES, July 8, 2016, https://www.nytimes.com/2016/07/10/opinion/sunday/the-paradox-of-disclosure.html?_r=0; Sunita Sah and George Loewenstein, *Nothing to Declare: Mandatory and Voluntary Disclosure Leads Advisors to Avoid Conflicts of Interest,* 25(2) PSYCHOL. SCI. 575 –584 (2014); *cf*. Sunita Sah, Angela Fagerlin, and Peter Ubel, *Effect of physician disclosure of specialty bias on patient trust and treatment choice*, http://www.pnas.org/content/113/27/7465.full.pdf.

the greatest extent possible. Important terms and features such as change or surrender charges are especially critical for prominent, advance and uniform disclosure. The goal should be to promote easy comparisons and be brief and clear.

Design experts should be engaged to develop and test the documents for effectiveness in conveying key information and promoting investor understanding. The NAIC should separately prohibit misrepresentation and establish clear penalties, such as policy termination and producer and insurer monetary penalties.

F. Comprehensive Producer Training

The NAIC must ensure that producers who provide “personalized investment advice” meet minimum training and competency requirements. Insurers should adopt training practices and written policies and procedures to comply with the impartial conduct standards. They should also monitor the implementation of those practices and the compliance of advisers with the impartial conduct standards. Lastly, insurers must be required to take appropriate action when the standards are violated and modify their policies and procedures when necessary.

The NAIC should also engage in regular and robust analysis of market developments and advances in technology to ensure products do more than simply mitigate conflicts but in fact provide value, eliminate conflicts and fairly inform investors of all necessary information to facilitate their decision-making.

We also note that the regulation does not create or imply a private cause of action. While we understand this is traditional NAIC protocol, we note that consumers would greatly benefit from a clear private cause of action as well as State consumer assistance.

Conclusion

AARP commends the NAIC and other regulators for taking action to ensure that advice is provided in the best interest of investors. Families have worked hard to accumulate financial assets. In the changing economy, households have growing responsibilities for their long term financial security. While technology is making it easier to compare investment options, it remains a huge challenge for typical families, and regulators should be commended for all efforts to simplify and make the process fair and understandable. We look forward to working with the NAIC to ensure that insurers provide insurance products that meet consumers’ investment needs. AARP is hopeful the consistent use of high standards will improve confidence and encourage more Americans to use insurance products and advisers knowing it will be in their best interest.

Thank you for consideration of these comments. We look forward to working with you to ensure the model regulation promotes a strong fiduciary standard that will protect the financial security of American families. If you have any questions, please feel free to contact me or contact Michele Varnhagen on our Government Affairs staff at (202) 434-3829 or mvarnhagen@aarp.org.

Sincerely,

David Certner
Legislative Counsel and Policy Director
Government Affairs