



November 29, 2023

North American Securities Administrators Association
750 First St. NW Suite 990
Washington, D.C. 20001

Members of the NASAA:

As Arkansas Insurance Commissioner for five years (2015-2020) and current insurance agent, I appreciate the opportunity to comment on NASAA's proposed updates to the Business Practices Rule. While insurance products, including variable annuities, are primarily regulated by state insurance laws and insurance regulators, I am concerned that NASAA's proposal will create confusion for consumers that insurance agents work with because it conflicts with and undermines related regulations in the consumer protection space.

While NASAA has said its proposal aims to help states align with the Securities and Exchange Commission's Regulation Best Interest (Reg BI), a strong public case has been made that it does the opposite. Areas of inconsistency between Reg BI and the proposal include how the proposal defines a recommendation, the new limits it places on compensation, and an expansion of requirements to mitigate conflicts.

The inconsistencies between the proposal and Reg BI are problematic for insurance agents and the people we serve. Reg BI is closely aligned with the NAIC's Suitability in Annuity Transactions Model Regulation adopted by more than 40 states, including Arkansas. Reg BI and the NAIC model provide a consistent baseline of consumer protection across most states, regulators, and products. By conflicting with Reg BI and the NAIC model in important ways, the NASAA proposal invites confusion, introduces complexities, and undermines efforts to create strong national standards.

Notably, in producing its model rule, the NAIC sought “a high degree of harmonization across regulatory platforms” because such harmonization is “beneficial to consumers and the industry.” NASAA’s proposal ignores the clear consumer benefit that harmonized rules create. NASAA has packaged its proposal as a “menu” of rules from which states can pick and choose. This “choose your own adventure” approach to regulation is out of step with the approach taken by other state and federal regulators and will unnecessarily complicate state securities regulation.

In closing, it would be better for consumers and the financial services industry if NASAA withdrew its proposal and produced new rules that actually aligned with Reg BI and the NAIC.

Sincerely,



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CC: Governor Huckabee Sanders