



February 5, 2001

Carolyn Johnson
NAIC
2301 McGee, Suite 800
Kansas City, MO 64108
(Via Email to cjohnson@naic.org)

Re: Comments on the NAIC's Proposed Life Insurance and Annuities Suitability Model Regulation

Dear Ms. Johnson:

MetLife would like to provide comment on the NAIC's proposed Life Insurance and Annuities Suitability Model Regulation (the "Proposed Model"). We share the concern expressed by others in the industry regarding the suitability standard contained within the Proposed Model in light of the subjective nature of the purchasing decision in insurance sales. We prefer a standard that a producer make a recommendation in connection with an insurance transaction that is "not unsuitable" for the customer.

We have outlined our concerns and suggested changes with respect to the latest draft of the Proposed Model below. We appreciate the Suitability Working Group's consideration of these comments.

Definition of "Suitable recommendation"

We would suggest that the definition of "suitable recommendation" be amended (at the end) to read as follows:

*" ... and that **helps** ~~meets~~ the purchaser's **insurance**~~able~~ needs or financial objectives" or "
... and that **addresses** ~~meets~~ the purchaser's **insurance**~~able~~ needs or financial objectives."*

It's difficult to determine that the need or objective will actually be *met* as the need or objective may change or is, in many cases, merely an estimate. The purchaser's objectives may also be unrealistic. For example, a customer may have a \$1 million insurance need, but funds to pay a premium for only \$500,000. We also note that the term "insurable" carries an underwriting connotation and recommend the change to "insurance."

Exceptions

We believe that there are other situations and/or products, described below, to which this Proposed Model should not apply:

- The Proposed Model provides an exception for products sold to sophisticated purchasers, but sophisticated purchaser does not include a consumer acting on the recommendation of a financial planner or benefit consultant, other than the producer. We suggest that an exception be added for such cases. Such an exemption could be worded similarly to that included in Securities and Exchange Commission Rule 180. This rule relates to exemption from registration of securities issued by an insurer or certain banks to a Keogh plan. In particular, Section (3)(i) (SEC Rule 180) extends the exemption where the employer is represented by:

“...a law firm, accounting firm, investment banking firm, pension consulting firm that is engaged in furnishing services of a type that involve such knowledge and experience in financial and business matters that the employer is able to represent adequately its interests and those of its employees.”

Where an individual is similarly represented, an exemption should be granted.

In addition, we would appreciate clarification that an individual in the group context would fall under the institutional customer’s classification as a “sophisticated purchaser.”

- We’re concerned that this rule could have an adverse effect upon products such as Voluntary Permanent Life (generally a payroll deducted product) sold to members of an employer or other permitted group. Therefore, we would recommend an exemption be added following the exemption for group products in Section 4(E) and renumbering the exemption that follows:

F. Individual life insurance or annuity products sold to members of an employer or other permitted group, where

(i) the plan of coverage is selected by the employer or other group representative, some portion of the premium is paid by the group or through payroll deduction and, if applicable, group or simplified underwriting is used; and

(ii) there is no direct solicitation of individuals by an insurance producer. For these purposes direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or individual meetings between the insurance producer and eligible member of the group solely to assist in completing applications, payroll deduction and related forms or selecting investment options offered under plan of coverage; or

G. ...

This language mirrors the exclusion under the Life Insurance Illustration Model Regulation and should be provided here for the same reasons special rules were designed for this market in the Illustrations Regulation. Typically, the "individual meetings" held are limited to 15-20 minutes during the workday at the work place -- on "employer time". This time is used to provide a "quote", fill out forms (e.g., the application form, the authorization form, the payroll deduction form, etc.), to provide

privacy notices and other disclosures, and to answer any specific questions the individual may have.

- We would appreciate clarification that Group Universal Life products are included in the exemption in Section 4(E) despite the fact that there may be “direct” contact with an individual to explain benefits etc. as these activities are incidental to the “sale” to the institutional customer.

Duties of Insurers

Section 5(B) would require insurers to inform producers of the requirements of this regulation and provide each producer with guidelines as to the type of information that should be obtained from the customer prior to making a recommendation. This is likely to be problematic for insurers that are approached by and deal with insurance brokers for what are basically one-time sales, as well as those who routinely sell through independent agencies.

In addition, we would suggest that the term “any relevant” be deleted from Section 5(B)(1) as we don’t believe it is practical to require that such policies and procedures be required for every piece of training information material provided to producers.

Section 5(C) would appear to require that, if entering into an agreement with an independent agency under which the agency would be responsible for advising its producers of the requirements of this regulation and of the insurers' procedures and guidelines regarding suitability, the insurer would be required to make "reasonable inquiry" to determine that the agency was in compliance with this rule. We believe that it should be adequate that such agreement require in writing that the agency be in compliance and that the insurer have no knowledge or notice of the agency’s noncompliance before entering into such agreement.

Duties of Producers

We are also concerned with the determination of whether a producer has met his or her obligations based on what is “known” to the producer. We believe that the producer (and insurer) should be able to rely upon the information provided by the customer in the application and related materials. Otherwise, it would be a difficult standard to rebut.

In addition, in Section 6(E)(2), it is not clear how an insurer/producer would be able to demonstrate that an insurance transaction that is entered into by a customer is “contrary to the recommendation of the producer.”

Possible Application to Registered Products

It is not clear whether the term "fixed life insurance or annuity product" applies only to non-variable life insurance policies and annuities or whether it applies to variable products where purchase moneys are placed wholly in the fixed (i.e., guaranteed) option. We recommend that this be clarified.

MetLife appreciates your consideration of our suggested changes. We look forward to working with the Suitability Working Group as you continue revising your Proposed Model.

Sincerely,

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