

## CDI Sponsored SB 263 (Dodd) – Major Provision Summaries – 2.17.23

### Scope

- Include a strong best interest standard where only the interests of the consumer are considered when making a recommendation (10509.910, 10509.914).
- Apply proposed suitability legislation to all life insurance products (10509.910 et. seq.).

### Incentives and Compensation

- Permit producers to only receive commissions and fees (10509.914(a)(3)).
- Prohibit insurance producers from receiving other cash and non-cash compensation, including other incentives for sales of annuities and life insurance products to help eliminate sales abuses stemming from material conflicts of interest (10509.914(a)(3), 10509.914(b)(2)(H)).

### Care Obligation

- Require insurance producers to consider additional information they actually know or reasonably should have known about a consumer as provided by the consumer or by observing the consumer's circumstances when determining whether an annuity or life insurance product effectively addresses the consumer's financial situation, insurance needs, and financial objectives (10509.913(d)(16), 10509.914(a)(1)(D)).

### Disclosures

- Require insurance producers to use a specified form in replacement situations which requires comparison of the replaced and replacing annuity or life insurance product in order to avoid unsuitable replacement sales (10509.914(a)(4)(B)).
- Require a specified producer disclosure form that consumers must receive describing the producer's relationship with the consumer, the products the producer is authorized to sell, and compensation and require that the disclosure is provided without the consumer having to first request it (10509.914(a)(2)(A)).
- Require producers to identify and eliminate any material conflicts of interest, if possible. If the material conflict of interest cannot be eliminated, the producer shall take action to ensure the conflict of interest does not prevent the producer from acting in the best interest of the consumer, disclose the material conflict of interest to the consumer, and disclose the actions taken to ensure the material conflicts of interest do not prevent the producer from acting in the best interests of the consumer (10509.914(a)(3)).

### Sale Without Recommendation

- Prohibit sales of annuities and life insurance products in situations where the insurance producer does not have the necessary information to determine whether the annuity or life insurance product is in the consumer's best interest (10509.914(a)(1)(C)(ii)).

### Supervision System

- Require insurers to strengthen their detection methods of noncompliant producer sales recommendations including but not limited to a screening system to identify transactions which necessitate additional review, and systems to confirm suitability information, conduct surveys and interviews, and other internal monitoring programs (10509.914(b)(2)(E)).

### Written Explanation

- Require producers to provide the consumer with a written and oral explanation of the basis for their determination that the sale of the annuity or life insurance policy would effectively address the consumer's financial situation, insurance needs, and financial objectives. The producer shall also give the written explanation to the insurer (10509.914(a)(1)(A)(v)).

### Safe Harbor

- Allow safe harbor for ERISA fiduciaries (10509.914(d)).
- Limit the safe harbor to investment advisors who meet or exceed California's proposed standard (10509.914(d)(1)).
- Require FINRA registered broker-dealers to follow California's proposed standard until FINRA meets or exceeds California's proposed standard (10509.914(d), 10509.914(d)(4)).

### Exemptions

- Limit exemptions to situations where a recommendation is not made to an individual consumer for ERISA plans, specified IRS plans including 403(b)s which are retirement plans offered by schools and certain charities, and government or church welfare benefit plans as defined in the Internal Revenue Code so that these policyholders are offered the same consumer protections (10509.912(d)).

### Training Requirement

- Add a training requirement for life insurance policies that is similar to the existing training requirement for annuities (10509.915(c) and 1749.81).

### Buyer's Guide

- Align annuity sales with life insurance sales by requiring insurers to provide consumers with the NAIC Buyer's Guide for annuities so consumers can better understand the differences between the types of annuities and choose the type of annuity that's most appropriate for them (10509.916).