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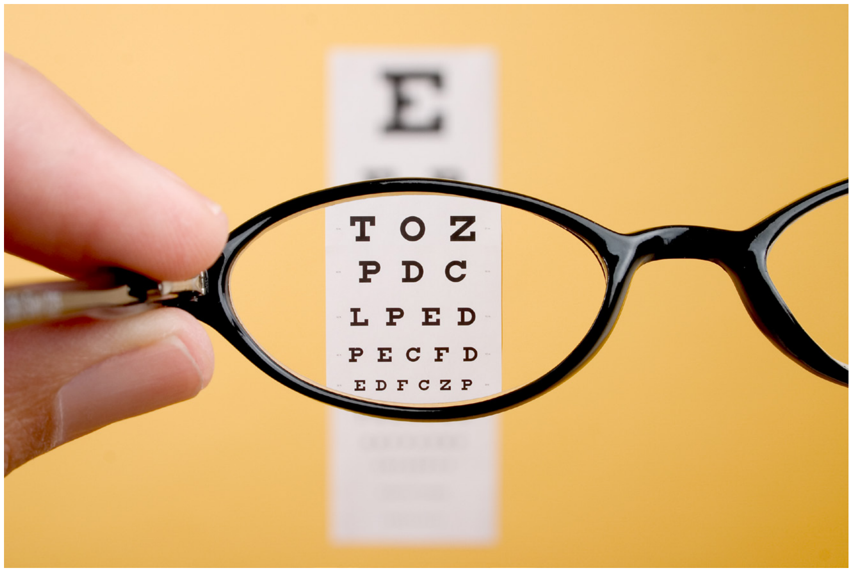

LIFE INSURANCE IN THE CLIENT'S BEST INTEREST:
SEEING MORE CLEARLY IN 2020

By: Lawrence J. Rybka, JD, CFP®

Life insurance is a unique and important financial product for many clients. More so, it is the only product that can protect clients' families and businesses against the risk of early death. Properly designed life contracts also allow clients to benefit from unique tax benefits afforded only to life insurance products, including income tax free death benefit and tax favored accumulation of policy cash values. Maximizing the benefits of these contracts requires ongoing advice from competent advisors who provide advice that is in clients' best interest. Today, consumers and advisors must be aware of the great divide that exists between both the products offered by insurance companies and the standards under which advice is given. Those advisors who continually seek to specialize in this area will increasingly be called to meet higher standards of conduct.

The regulatory standards for life insurance have not kept pace with the increased complexity of modern life insurance products and the need for ongoing monitoring and management. Most state insurance regulators have not modernized state insurance laws to afford consumer protections or increased duties by advisors to clients enough to keep up with protections offered by banking regulation, securities laws, trust laws or qualified plans where greater duties are owed to clients both when a recommendation is made and on an ongoing basis. Additionally, many complex modern life products involve important tradeoffs that are not well understood by consumers or perhaps even by the agents who sell them. The current standard for training and advice about insurance products is woefully low.

The first part of this paper will seek to explore how three changes to the regulatory landscape will change current standards and bring life insurance into the modern era and more on par with other financial products and services, while providing greater value to clients with products and services that meet their best interest.

1. The first of these changes in standards came from the CFP Board when they changed their Code of Ethics and Standards of Conduct ("Code and Standards") for insurance-licensed CFP®[i] professionals. The new standards now extend to any type of financial advice, including all life insurance recommendations. These recommendations must now be in the client's best interest and the advice about insurance products must now be offered under a fiduciary standard.[ii]

2. The second change involves the announcement of twin regulations by the Securities and Exchange Commission (SEC) in long anticipated regulation around Best Interest standards. These became final in 2019 and go into effect June of 2020. They come about years after the Dodd-Frank legislation that authorized them and additional years of study and debate by the SEC. These rules will apply to both those that have licenses as Investment Advisors and any financial advisor that is registered to offer securities though a broker-dealer. These rules will raise both disclosure and duties owed to retail consumers for all variable life and variable annuity product recommendations.

3. The final change is a regulation by the State of New York, Regulation 187, that takes effect on February 1, 2020 for all recommendations to purchase life insurance products sold in the state of New York.[iii] This regulation requires agents and insurance companies to make life insurance recommendations that are both suitable for the client and in the client's best interest. Reg 187 will require advisors to better understand client needs, document life insurance recommendations, and substantially raise the standard for life insurance advice. It applies with very limited exceptions to almost all types of life insurance recommendations.

The second part of this paper will seek to explore how these standards will impact advice as it pertains to life insurance and recommendations about life insurance products. It will also call to question the benefit to consumers of higher standards by those offering insurance advice when regulated by state insurance law outside of New York or when insurance advice is offered without the added protections of a Best Interest standard provided by the SEC or a comparable Fiduciary Standard for CFP® professionals.

EXISTING STATE LIFE INSURANCE REGULATIONS ARE MAINLY BASED ON CONTRACT LAW

By and large, life insurance is regulated by the 50 state insurance departments and is based on contract law rather than any duty an agent has to the client. Currently, those who sell only general account life or annuity contracts[iv] must pass a relatively simple exam after 40 hours of classroom or online learning. Under the law of agency, the agent who sells insurance does not work for the client but is technically an agent for the life insurance company in the transaction and places the policy on behalf of the company. Thus, the agent represents the insurance company in the transaction, not the client. Under current standards, the life agent owes few legal duties to the clients and those limited duties terminate when the policy is placed.[v]

If there is a dispute on how a policy was supposed to work or the benefits that were to be provided, it is the policy contract language that controls it, not sales materials or representations by the agent. This language which describes how policy earnings are actually credited, as well as the policy charges, are often at odds with expectations the client may have had based on the sales proposals or illustrations used by agents.[vi] Illustrations are supposed to show prospects how the product will work under certain premium payments and under certain economic conditions, but they are often inappropriately used to compare contracts. Some of the assumptions bear little likelihood of occurring over time. This has been a persistent and seemingly intractable problem for the greater part of the last 30 years.[vii]

In our experience, most life agents really do seek to serve their clients and deliver a quality recommendation, but they are hampered by some of the same complexities by products that plague their clients. Few agents have the sophistication to look past the illustration to study the contract language from the products being recommended to make more informed recommendations. Some agents are unable to offer more transparent, variable products because they lack the securities licensing to offer them. Only a few have built a business model that monitors policies after placement and provides ongoing advice on how those policies should be managed over time. Any of these services, while beneficial to clients, are outliers to very low minimum regulatory standards.

New York is the first state to significantly raise this low minimum standard for agents and insurance companies as it pertains to life insurance recommendations. Under the NYDFS Regulation 187, the agent and the company will be held to a standard where recommendations concerning life and annuity contracts must be "exclusively in the client's best interest". Furthermore, recommendations must also be suitable for the client based on an understanding the client's goals and 13 specific suitability elements that the agent must gather as part of their recommendation.[viii]

To understand the significance of these changes, one must understand that for the last 150 years, life insurance has operated on what has been basically a "caveat emptor" or "buyer beware" regulatory model, based primarily on the contractual terms of the policy. Under current state insurance law, the purchaser of a life insurance or annuity contract is presumed to have read, understood and consented to the terms of the life insurance contract that is delivered after they have tendered premium. In actual practice, the client is often shown illustrations by the agent about how the policy will work and been promised benefits based on a number of elements that will change over the life of the contract and often times not guaranteed. To summarize, the actual cost and benefits may vary greatly from these "illustrations".

At the very end of the sales process, after being shown the illustration, going through the underwriting process, and actually paying a premium on the policy, is it when the actual contract from the company is delivered to the policyholder. It is the contract language, not the illustration, that is controlling how the policy values are credited and how charges are deducted from the policy. The client then has a limited time period to read and fully understand the terms of the contract and either keep or reject the contract (and rescind the policy during the free look period for a refund of premium).

CURRENT STATE-BASED STANDARDS FOR GENERAL ACCOUNT LIFE PRODUCTS REQUIRE CLIENTS TO DETERMINE IF A TRANSACTION IS IN THEIR BEST INTEREST

Under current state-based insurance laws, it is left to the policyholder to determine if the recommendation and the contract are in their best interest.[ix] Under current state-based insurance regulation, the consumer may have no idea how important elements of what they were shown in an illustration could change over time or that the company could increase charges. This has always been the case with life insurance products, but it is especially true for some of today's more complex and opaque products.

This problem of wide differences between the illustration and the actual contract has been magnified by a new type of very complex life insurance product that passes even more risks to the consumer: Index Universal Life. Index Universal Life ("IUL") often promises equity-like returns in the illustration but is actually a bond-based general account product regulated only by state insurance law. In some of the IUL products we have reviewed, more than 90% of the projected benefits are based on contractual elements that the insurance company can change at its discretion. These non-guaranteed elements can control how and even if the policy will work at a projected level of premium payments. IUL products are the life insurance industry's attempt to mask the impact of low bond yields. The life insurance industry fought and won a battle to keep the SEC from regulating these products.[x] Since that time, the companies have gotten increasingly more aggressive in creating more complex products with even bigger claims to the point of inducing clients to take out huge bank loans to fund the policies.[xi]

In what passed for an attempt by state insurance regulators to restrain some of the greatest abuses with IUL, the NAIC (National Association of Insurance Commissioners) limited life insurance companies to the assumption that the derivatives held in their general account that fueled "upside" under Actuarial Guideline 49(AG49) to illustrating a rate that can be supported if the insurance companies earn no more than 45% annually on the derivatives that back their IUL products![xii] The current discussion centers around how the boldest IUL products have breached even this aggressive limit.

THE CHALLENGE

This "caveat emptor" regulatory model made more sense when life insurance products were very simple and standardized and when almost all policies were sold by agents associated with a single career company. States adopted model insurance regulation laws that required standardized policy language which often differed little from carrier to carrier. Whole life and term were the only policy types that all companies sold with very comparable feature. The required language that was written in the policy's contracts was based on models created by the NAIC. In fact, the whole concept of cash value was driven by standardized non-forfeiture language that states required in contracts for the purpose of preventing policyholders from getting nothing if they surrendered policies.

While this language was updated for variable life products and universal life in the 1970s and 1980s, it is still largely based on a whole life product from 70 years ago, before the invention of computerized illustrations, modern product types, increasingly complex contractual terms and independent agents who can represent multiple companies. Today's products are not at all standardized between companies. Contracts have grown longer, more complex and can be upwards of 60 to 70 pages long. Now not only do the products vary greatly, but the regulatory standard under which they are offered may vary to an even greater extent. At one end of the spectrum we have prospectus-based products that are subject to SEC disclosure, FINRA regulation and independent review for suitability best interest standards. At the other end of the spectrum are state insurance regulated IUL products subject only to a "caveat emptor" contract standard where consumers have the sole responsibility to decide if these products are in their best interest.

CFP BOARD BEST INTEREST STANDARD

While basic minimum standards to sell life insurance are low under state-based insurance laws, some financial advisors have voluntarily decided to distinguish themselves with professional designations. State-licensed insurance agents can obtain further training and professional designations including CFP®, CLU®, ChFC®, CFA® or CPA. Each of these professional designations place some additional education, ethics and practice standards on those who hold them. For example, those that hold the CERTIFIED FINANCIAL PLANNER™ ("CFP®") certification must now have a bachelor's degree, pass a comprehensive exam and have three years of experience in the field. CFP® professionals must also subscribe to minimum ethical standards that will change materially in 2020.

The CFP board, which sets standards for CFP® professionals, made substantive changes in how those who hold this credential offer all products, including life insurance, to clients using new standards that go into effect in June of 2020. The new rules set forth the ethical standards for CFP® professionals and replaces the CFP Board's current Code of Ethics, Rules of Conduct, and Financial Planning Practice Standards and Terminology as of June 2020. The new Code and Standards includes the application of the fiduciary standard that requires CFP® professionals to "act in the best interest of the client at all times when providing financial advice". This would apply to any situation where a CFP® professional would give advice or recommend life insurance products. The advice or placement of life insurance can no longer be segregated from a financial plan under the new rules and must be served in a fiduciary capacity.

Other relevant ethical standards which would impact a CFP® professional in the placement of life insurance contracts include requirements that they:

- Act with honesty, integrity, competence, and diligence
- Avoid or disclose and manage conflicts of interest
- Act in the client's best interest
- Exercise due care including in the recommendation of a product including life insurance

It is clear these duties to the client require a CFP® professional to go beyond delivering a contract that they may have given little thought to. At a minimum, they create an obligation to give greater thought and care in the recommendation and put the duty to the client ahead of the life company and their own financial interest. In fact, the duty of care would also require that the CFP® professional provide professional services with competence (relevant knowledge and skill to apply that knowledge). They must also provide written disclosure of the scope of their engagement in a format very consistent with the mandated SEC Customer Relationship Summary (Form CRS) discussed below.

SEC REGULATION BEST INTEREST AND MANDATED FORM CRS – A MOVE TOWARDS BEST INTEREST

On June 5th, 2019 the SEC voted to finalize two rules that had long been considered, debated and studied. The first enhances duties that broker-dealers have to clients under what is called "Best Interest" and the second requires both those registered with broker-dealers or as Investment Advisors to provide a plain English Customer Relationship Summary ("CRS") to all clients. The CRS may not exceed four pages and must outline services, methods of compensation and potential conflicts. Both Rules become fully effective in June 2020. The CFP Board moved to delay implementation of its own fiduciary rule to coincide with the SEC rules. Both will have significant impact on those who are FINRA-licensed or affiliated with investment advisors. The rules will impact the offering of insurance products and require firms to think through how advisors are compensated and then how to disclose this compensation and other potential conflicts to clients in the mandated CRS.

The entire basis for the Dodd Frank Act's call for a Best Interest Rule was initially prompted by a Rand Study published in 2008 on the various forms of financial advice. It cited consumer confusion on different standards for financial advice offered by RIAs, broker-dealers and insurance agents. Despite this confusion, the study reported that investors expressed high levels of satisfaction with the services they receive from their financial service providers. The CRS directly addresses this core issue of confusion. The SEC summarized the new CRS disclosure in its press release:

"The Form CRS Relationship Summary will require registered investment advisers and broker-dealers to provide retail investors with simple, easy-to-understand information about the nature of their relationship with their financial professional. While facilitating layered disclosure, the format of the relationship summary allows for comparability among the two different types of firms in a way that is distinct from other required disclosures. Form CRS will also include a link to a dedicated page on the Commission's investor education website, Investor.gov, which offers educational information about broker-dealers and investment advisers, and other materials."[xiii]

In short, Form CRS will make financial products clear to consumers, including variable life and variable annuity products. It will also answer the following:

1. How financial advisors are compensated
2. Which licenses the advisor holds and products they may offer

3. What potential conflicts they may have in offering advice

4. Where consumers can find any previous client complaints or regulatory actions for the advisor in question

5. Whether the nature of the engagement with the client is one time or ongoing

Regulation Best Interest ("Reg BI") is a companion rule to Form CRS by the SEC that increases standards for advice offered by advisors associated with a broker-dealer to ensure that recommendations are in the client's best interest. It encompasses several elements:

1. It explicitly requires broker-dealers to consider the costs associated with a recommendation to clients. It doesn't, however, require that the least expensive recommendation be made by a broker, according to Brett Redfearn, the SEC's Director of the Division of Trading and Markets. Cost is an important factor, but not the only one that should be taken into consideration.

2. It requires firms to eliminate a range of conflicts, including "sales contests, sales quotas, bonuses and non-cash compensation" but it only does so if such compensation is "based on the sales of specific securities and specific types of securities within a limited period of time."[xiv]

3. Finally, it will also require firms to adopt written policies and procedures "reasonably designed to identify and at a minimum to disclose or eliminate conflicts of interest."[xv]

Reg BI will increase standards and consumer protection for separate account variable products but will have no impact on general account life products which will remain regulated by state insurance departments.

NEW YORK REGULATION 187

Effective February 2020 for all life insurance products offered in the state of New York, the New York Department of Financial Services (NYDFS) established a final standard that requires life companies to put procedures in place to assure "a transaction is in the best interest of the consumer and appropriately addresses the insurance needs and financial objectives of the consumer at the time of the transaction."[xvi] This regulation, the first of its kind, represents a dramatic change in minimum standards for all types of products for both life insurance producers and companies. It also has a wide impact for both sales in New York and other states.[xvii]

The regulation, which was finalized in 2018, was opposed by the American Council of Life Insurers (ACLI), the Advanced Association of Life Underwriters (AALU), the National Association of Insurance and Financial Advisors (NAIFA) and the Life Insurance Council of New York (LICONY). All of these industry trade groups lobbied for changes in the rule and won a delay in its implementation. Two industry trade groups brought unsuccessful legal challenges against NYDFS in an attempt to block the regulation.[xviii] The industry trade groups also lobbied for a slightly less rigorous suitability standard for term insurance policies and a carve out for agents of captive and carrier companies from the original proposed regulation. Those agents with limited product sets or proprietary products will be deemed to act in the best interest of clients even with a limited product set, so long as they identify themselves as such in writing to potential clients prior to the transaction. This regulation took effect on August 1, 2019 for annuities and will take effect February 1, 2020 for life insurance policies. It fundamentally changes how life insurance will be marketed and serviced in the state of New York by requiring the agent to do the following:

1. Understand and document the client's goals and situation before making a product recommendation. Producers and insurance companies are to document client goals and financial information before making recommendations of life or annuity contracts.[xix] This documentation includes 13 specified points

of information that must be gathered prior to a recommendation including: financial resources for funding the policy, intended use of the policy, financial time horizon, and "tolerance of non-guaranteed elements in the policy, including variability in premium, death benefit, or fees."[xx]

2. Address client/product-specific suitability. The producer must demonstrate and document how the specific recommendation to the client in question, including the underlying sub-accounts and riders and similar product enhancements, if any, are "suitable" for the specific client in question based on their goals and information. In fact, the very definition of "suitable" in the regulation is far reaching: "Suitable means in furtherance of a consumer's needs and objectives under the circumstances then prevailing, based upon the suitability information provided by the consumer and all products, services, and transactions available to the producer."[xxi]

3. Provide in any presentation a fair and accurate representation of products. Producer must have a reasonable basis to believe that the policyholder has been informed of the various features and consequences of the product both "favorable and unfavorable such as the potential surrender period and surrender charge, any secondary guarantee period, equity-index features, availability of cash value, potential tax implications if the consumer sells, modifies, surrenders, lapses or annuitizes the policy, death benefit, mortality and expense fees, cost of insurance charges, investment advisory fees, policy exclusions or restrictions, potential charges for and features of riders, limitations on interest returns, guaranteed interest rates, insurance and investment components, and market risk."[xxii]

4. Give an accurate description of the producer's role. The New York standard attempts to bring clarity to the role that life insurance producers play and how they are compensated. The regulation restricts what an insurance producer calls him or herself along with the description of their services. It states, "A producer shall not state or imply to the consumer that a recommendation to enter into a sales transaction is financial planning, comprehensive financial advice, investment management or related services unless the producer has a specific certification or professional designation in that area. A producer shall not use a title or designation of financial planner, financial advisor or similar title unless the producer is properly licensed or certified and actually provides securities or other non-insurance financial services."[xxiii] This role and compensation disclosure is in many ways identical to both what the CFP Board now requires and what will be mandated by the SEC with Form CRS. New York will for now be the only state to give consumers the benefit of this disclosure for state insurance licensed agents who are not CFP® professionals or offer securities-based products.

These new standards by New York are substantive, but what likely has the life insurance companies on their toes is they are backed by requirements for the issuing life insurance companies to put in place systems for supervision and audit to enforce the standards. Specifically, insurance companies are also prohibited from "effectuating a transaction unless it believes that the transaction was suitable based on the client's suitability information."[xxiv] The regulation enforces these standards; any producer or insurer who fails to follow the standards will be engaged in an activity "deemed to be an unfair method of competition or an unfair or deceptive act and practice in the conduct of the business of insurance."[xxv]

Perhaps more important than sanction by the state, these new standards will give consumers increased leverage in gaining rescission in abusive transactions where products recommended were clearly not in their best interest. Instead of insurance companies defending poor recommendations on the basis of the client failing to read the contract language and a caveat emptor business model, they will need to prove that the recommendation was based on data supplied by the client and that the recommendation took into account the client's goals and best interest.

WHOSE SIDE ARE WE REALLY ON?

Of all financial products, life insurance remains the most complex and longest-held financial product most consumers will buy. Life insurance policies are a critical part of the financial plan for many businesses, estate plans and those that wish to transfer wealth to the next generation. There is a tremendous difference in outcomes for clients based on the products recommended, the objectiveness and quality of the advice, and the ongoing monitoring and management of the policies. These factors call for specialists who really act in clients' best interest. The changes by the SEC, the CFP Board and the state of New York all call attention to the question of "Whose side are we really on?" Those insurance professionals who really do wish to serve clients and produce beneficial long- term results for them will embrace these changes and extend a business model that is aligned with them. They will look at how they can go above minimum standards by:

1. Embracing a business model where they disclose the products they offer, how they are compensated, potential conflicts and a clear outline of whether their services are one-time vs. ongoing, even if only offering state regulated general account products.

2. Having the registration that allows them to offer more transparent products that are regulated as securities in addition to state-based general account products.

3. Welcoming the accountability for acting in clients' best interest and having their recommendations independently reviewed for suitability and best interest.

4. Not shying away from documenting client goals and circumstances and welcoming a written recommendation that takes into account the client's specific goals and risk profile and makes recommendations that are in the clients' best interest.

5. Independently modeling more realistic economic assumptions, as opposed to defaulting to life insurance company assumptions while remaining consistent with Reg 187 informing the client of various features and consequences of the product both "favorable and unfavorable", thus aiding the client in understanding what they are buying.

6. Growing a business model that is based on ongoing service and monitoring of policies as opposed to one-time transactions.

These changes in regulation will be beneficial to the insurance industry as a whole. Existing state-based standards incentivize life insurance companies and less-ethical or less-informed agents to create or present illustrations that are prone to understate costs and overstate benefits to consumers. Not only has this problem persisted for more than 30 years, it has gotten worse. This has resulted in the perverse outcome that those life insurance companies and agents, who are willing to create the most outrageous assumptions in their illustration, gain market share because consumers, as directed by their agents, compare illustrations without thought of the underlying economics or contractual terms of the contract. These new standards change that calculus of creating products that actually work for clients over the long term as opposed to ones that over-promise and under-deliver.

In our firm's 56 years of business in the life insurance space, we have observed that most financial advisors want to do the right thing for clients when it comes to insurance. They really do want to be on the client's side. They treasure the independence of being able to represent multiple products from several companies. These regulations will create better alignment of interests between ethical and professional advisors and clients. The life insurance companies that will succeed in this new environment will need to change sales materials, information and illustrations so that the product tradeoffs and funding levels can be more effectively communicated to the prospect or client. It will result in better product recommendations where clients understand the positives and negatives of a given recommendation.

There is no doubt that meeting these new standards will be difficult. It will likely drive some companies and agents who are unwilling or unable to meet these new standards from the market. We believe that these standards will bring life insurance into the modern financial world with standards that are on par with other financial products. The best companies and advisors will adapt their products and sales materials to align with a business model that puts clients first.

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Lawrence (Larry) J. Rybka is Chairman and Chief Executive Officer of Valmark Financial Group, which includes a broker-dealer, a registered investment advisor, an Executive Insurance Agency (the nation's first producer group) and the Valmark Policy Management Company. Valmark works though 110+ independently owned and run wealth management and transfer firms in 30+ states and has helped place over $60 billion of life insurance death benefits while managing insurance policies with a cumulative cash value of over $8 billion. Valmark's affiliated RIA, Valmark Advisers, has over $6 billion in assets under management, including approximately $3 billion in variable sub-account assets within its TOPS® asset management through the Northern Lights Variable Insurance Trust. Larry is also the Co-author and editor of Life Insurance 10X, a book co-authored with 13 Valmark Firms that casts a vision on how to bring life insurance to consumers on their terms with policies that improve customer results.

i Certified Financial Planner Board of Standards Inc. (CFP Board) owns the certification marks CFP®, CERTIFIED FINANCIAL PLANNER™, CFP® (with plaque design), and CFP® (with flame design) in the U.S., which it authorizes use of by individuals who successfully complete CFP Board's initial and ongoing certification requirements.

ii Press release "CFP BOARD STATEMENT ON SEC REGULATION BI AND RELATED GUIDANCE", June 5, 2019.

iii Press release "DFS ISSUES FINAL LIFE INSURANCE AND ANNUITY SUITABILITY AND BEST INTEREST REGULATION PROTECTING CONSUMERS FROM CONFLICTS OF INTEREST", July 18, 2018.

iv General Account products are products not regulated by FINRA or the SEC. Examples include Whole Life, Universal Life, Indexed Universal Life, Term Life, Immediate Annuities, Fixed Deferred Annuities, and Fixed Indexed Annuities.

v There currently is a subset of life and annuity contracts that are subject to the higher standard of suitability requirements and provide greater disclosure to clients via prospectus. These are commonly known as variable life and annuity products and are regulated under the 1933 and 1934 SEC Acts. These sales must also be principal approved by broker-dealers under FINRA regulatory standards. In addition, they meet normal filing and licensing requirements of state insurance law. These products will also be subject to Regulation Best Interest in June 2020. Harvard Law School Forum on Corporate Governance and Financial Regulation, Regulation Best Interest, Posted by Bradley Berman, Anna T. Pinedo, and Michael D. Russo, Mayer Brown LLP, on Wednesday, June 19, 2019.

vi "Beyond Illustrations – The Importance of Contract Language", Thomas R. Love, Journal of Financial Services Professionals, July 2017.

vii The Ledger Lie", Lawrence S. Rybka, Best's Review, Volume 90 No. 4, August 1989.

viii 11 N.Y.C.R.R. §§ 224.3(g) and 224.4.

ix If the contracts in question are separate account variable products, there are additional duties owed to the client. The broker-dealer has an obligation to approve the use of the product in question, the recommendation must be suitable for the client's specific situation, sales materials and correspondence are reviewed by a firm principal and each transaction is subject to principal review. They will also be subject to the SEC's Best Interest Regulation staring in June 2020.

x SECURITIES AND EXCHANGE COMMISSION 17 CFR Part 230 [Release No. 33-9152; File No. S7-14-08] RIN 3235-AK16 INDEXED ANNUITIES AGENCY: Securities and Exchange Commission. ACTION: Final rule; withdrawal;

xi "How to Retire in the Magical Retirement Income Castle in the Clouds", Lawrence J. Rybka, JD, CFP®, July 2019.

xii "Regulator Calls For 'A Total Rework' Of Key NAIC Illustration Guide", John Hilton, InsuranceNewsNet, July 16, 2019.

xiii Press release "SEC Adopts Rules and Interpretations to Enhance Protections and Preserve Choice for Retail Investors in Their Relationships with Financial Professionals", U.S. Securities and Exchange Commission, June 5, 2019.

xiv FINRA Rule, *supra* note 8, at 352.

xv SEC Regulation Best Interest Rule, section 6.

xvi 11 N.Y.C.R.R. § 224.0(c).

xvii Press release "DFS Issues Final Life Insurance and Annuity Suitability and Best Interest Regulation Protecting Consumers from Conflicts of Interest", Richard Loconte, Department of Financial Services, July 18, 2018.

xviii "NAIFA Files Second Lawsuit Against NY Best-Interest Rule", John Hilton, InsuranceNewsNet, November 26, 2018.

xix 11 N.Y.C.R.R. § 224.4(c).

xx 11 N.Y.C.R.R. § 224.3(g).

xxi 11 N.Y.C.R.R. § 224.3(h).

xxii 11 N.Y.C.R.R. §§ 224.4(b)(3)(i) and 224.5(b)(2).

xxiii 11 N.Y.C.R.R. § 224.4(i)

xxiv 11 N.Y.C.R.R. § 224.6(a).

xxv 11 N.Y.C.R.R. § 224.8.