



December 7, 2023

Submitted electronically to comments@insurancecompact.org

Insurance Compact Product Standards Committee

Re: *Insurance Compact's ILVA Standard – November 2023 Draft*

Dear Product Standards Committee:

On behalf of our members, the Insured Retirement Institute (“IRI”)¹ appreciates the opportunity to comment on the exposure draft of the index-linked variable annuity uniform standard (“Standard”) put forth by the Committee. We continue to support the development and adoption of a workable uniform standard for index-linked variable annuities (“ILVAs”)² to enable our insurance company members to submit product filings for review and approval of ILVAs through the IIPRC.

We appreciate the work of the ILVA drafting subgroup and the Committee to date, including the updates in response to comments submitted in May and September. However, we continue to have some significant concerns around the new requirement in the Application Standards regarding the acknowledgement of a product comparison. We appreciate the need to keep the draft moving forward so that the timing can align with the effective date of AG 54, however, we also believe that this new requirement is unnecessary and potentially unworkable for companies depending on their product offerings. As such, we respectfully request that this requirement be removed, for the reasons outlined below, before the draft moves forward.

Our members continue to believe that the new provision in the application standard would only cause confusion and is ultimately unnecessary. As discussed in our May 5, 2023, and September 7, 2023, comment letters, all annuity recommendations and sales must already comply with applicable federal and state standard of conduct requirements, including the best

¹ IRI is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks, and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., the top 10 distributors of annuities ranked by assets under management and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

IRI is an active member of the Industry Advisory Council of the Interstate Insurance Product Regulation Commission (the “IIPRC”).

² ILVAs are also commonly referred to by IRI and our members as registered index-linked annuities, or RILAs.

interest standard now imposed under NAIC Model 275³ and the SEC's Regulation Best Interest ("Reg BI"). Under these rules, producers are required to act in the consumer's best interest when recommending annuities. Among other things, this means that a producer must have a reasonable basis to believe that a recommended annuity effectively addresses the consumer's financial situation, needs, and objectives, and that the consumer is informed of various key features of the product. Part of this analysis also includes considering reasonably available alternatives as part of a best interest determination. We believe that Reg BI's approach is appropriate as it allows for a scope of alternatives that is consistent with a firm's product offerings and with a particular consumer's financial profile. Requiring that a comparison of three specific products be presented to a consumer may not be feasible given offerings that are available, or not available, to a producer. In fact, it could even be misleading to the consumer if a producer provided a comparison to a product that they may not be able to sell. Additionally, a comparison may also be inappropriate if one of these products is clearly not in the best interest of the consumer.

Additionally, ILVAs are treated as securities under the federal securities laws, and therefore must be registered with the SEC and offered in compliance with applicable SEC rules. As required by the Registration for Index-Linked Annuities Act of 2022 (which was enacted by Congress as part of the Consolidated Appropriations Act, 2023), the SEC is required to adopt a new registration statement tailored specifically to ILVAs by mid-2024. Consistent with the RILA Act, the SEC's proposed amendments are designed to provide consumers with disclosures tailored to RILAs and that highlight key information about these products. Once the proposal is adopted and the new registration statement is implemented, there will be prescribed disclosure on RILA-specific features that was not specifically prescribed before.

Notably, all SEC registration statements include a product prospectus that must be delivered to purchasers and prospective purchasers. The prospectus provides detailed information, such as fees and product features, that consumers may need to make an informed decision about whether to purchase the product.

Given the existing best interest requirements and product information that needs to be disclosed to the consumers, including the RILA-specific information that will be disclosed pursuant to the new registration statement, we believe that consumers receive adequate disclosure and product information to make an informed purchase decision. Requiring inclusion of comparison between different product types in the application will provide no additional benefit to consumers and is far more likely to create unnecessary confusion by presenting information about products that may not be available for a producer to sell or that the producer may have determined are not in the consumer's best interest. We'd also note that similar comparisons are not required for other annuities.

For the reasons stated above, we urge the Subgroup to remove this requirement from the application standard.

³ To date, Model 275 has been adopted without substantive deviations in 36 states, and proposals to adopt Model 275 are actively pending or under development in many of the remaining states.

Finally, while we acknowledge that the Product Standard Committee has communicated that they will not be considering whether to include other interim value approaches as they have determined this is a policy decision for the Commission, we would like to note our continuous support for a Standard that aligns with Actuarial Guideline 54 (“AG 54”) by allowing other methodologies that are determined to be materially consistent with the hypothetical portfolio methodology. We believe that a variety of products in the marketplace promotes consumer choice and allows consumers to select the product that is the right fit for their financial goals. For example, a consumer might prefer an interim value methodology that is simpler to calculate and more transparent. These factors may be more important to some consumers, and we think the Standard should take this into account. Without a Standard that allows such products, availability, along with consumer choice, would decrease.

This component is important for a standard that will work for a broad number of companies, and we respectfully request that the Committee add this language back into the draft. We acknowledge the concern about ensuring that the Standard is well-defined so that it can be appropriately implemented, however, we think this issue could be addressed through requiring either actuarial demonstration or certification when filing. We’re committed to working with the Committee and the Compact to identify how this could be accomplished, and we are open to other language that would address this while also allowing for other methodologies that are materially consistent with the hypothetical portfolio methodology.

On behalf of IRI and our members, thank you again for the opportunity to provide these comments. We would be happy to discuss further with you and look forward to continued collaboration and partnership with the Product Standards Committee.

Sincerely,

Sarah E. Wood

Sarah Wood
Director, State Policy & Regulatory Affairs
Insured Retirement Institute
swood@irionline.org