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Bulletin 08-05

DATE: July 2, 2008
TO: All annuity insurers and annuity agents
FROM: Merle Scheiber, Director
RE: New Annuity Suitability Requirements

An annuity suitability law (SB 37) was enacted during the 2008 legislative session and is effective as of July 1, 2008. See SDCL 58-33A-13 through 58-33A-27. This legislation is based upon the NAIC annuity suitability model. The legislation requires insurance agents to make reasonable efforts to determine the suitability of investors to purchase an annuity prior to making the sale. Many insurance agents are also registered securities agents and are currently subject to the Conduct Rules of the National Association of Securities Dealers, now called the Financial Industry Regulatory Authority, Inc. ("FINRA"). This bulletin is notice that the NASD (FINRA) Conduct Rules meet or exceed the requirements found in SB37. Therefore, if a person is in compliance with the FINRA rules regarding suitability for the purchase or exchange of an annuity, it will be considered to be in compliance with SB37.

The legislation also requires insurers to establish a system of oversight regarding suitability recommendations.