



December 6, 2019

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### **AALU Scores Advocacy Win with Treasury's TFV Regulations**

Life insurance practitioners working in the COLI/BOLI marketplace have waited with bated breath for the Treasury Department's transfer for value regulations since the Tax Cuts and Jobs Act ("TCJA") was passed in 2017. For readers less familiar with the issue, the TCJA modified the existing transfer for value rules and would have created the unintended consequence of taxing death benefits in certain circumstances where life insurance policies were transferred through mergers and acquisitions. Once the problem with the TCJA was identified, AALU worked actively with the Treasury Department to correct these consequences. We educated the Treasury Department throughout the notice-and-comment process about the drastic implications the TCJA provision would have in the market and the importance of COLI/BOLI policies as long-term planning tools to deliver employee benefits and retirement savings as promised.

Fortunately, the Treasury Department's final regulations made several helpful corrections responsive to the concerns raised by the life insurance industry, based on AALU feedback. In total, the final rule was a substantial improvement to the changes

brought about by the TCJA and included several exemptions practitioners can use to plan around adverse tax consequences. If you want more information on the Treasury Department's final transfer for value regulations, please take a look at our [in-depth analysis](#) and our recent [Newswire](#).

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### **Congress Looks to Pass Year-End Spending Bill Before Dec. 20th Deadline**

The Congressional outlook for the remainder of the year is cloudy. Passing a government funding bill is the most pressing item for Congress, as the current Continuing Resolution expires on December 20th. Talks between appropriators are ongoing, but with impeachment hearings overshadowing negotiations, it is likely we will see a Continuing Resolution for at least some government funding. While a shutdown can't be ruled out, it is not expected.

We expect a few key provisions to be included in a year-end spending package, though it is unclear what will be included at this point. The SECURE Act is one of the items on the short list, and we continue our work to get this legislation included in a final bill. Other potential items for inclusion include a scaled-down tax extenders package, a handful of targeted Tax Cuts and Jobs Act fixes, and energy tax credits. Bottom line: we are in uncharted territory, and things will remain in flux as we approach the deadline. We will keep members informed.

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### **Massachusetts Sec. of State Galvin Signs Off on Moving Fiduciary Rule Forward**

This week Massachusetts' top securities regulator formally announced the state's proposed fiduciary rule would go forward. The rule would apply a fiduciary standard to

brokers and advisors selling securities—including variable annuities.

Massachusetts initially engaged stakeholders in a preliminary solicitation of comments on a draft proposal, and AALU offered comments in July along with a number of our industry partners. We expressed our concerns about the likely impact on commission-based financial services and the negative impacts for consumers. With this announcement, Massachusetts will now move forward with a public hearing and formal comment period.

The Massachusetts rule is similar to New Jersey's fiduciary proposal introduced earlier this year, though the NJ proposal does not apply to variable annuities. As AALU Counsel Brad Campbell explained, both the Massachusetts and New Jersey proposals contain restrictions that would negatively impact producers' ability to serve their clients effectively.

AALU is following state proposals like Massachusetts and New Jersey closely, and will continue to work with our partners to prevent regulation that would negatively impact producers and prevent you from serving your clients.

[AALU Comment Letter on MA Draft Proposal](#)

[AALU Comment Letter on NJ Proposal](#)

[AALU Primer on Implementation of New York Best Interest Standard \(NY 187\)](#)

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## **Life Insurance Industry Takes Action on E-Cigarette**

The life insurance industry continues to proactively update underwriting practices as the Centers for Disease Control and Prevention investigates the outbreak of lung injuries associated with e-cigarettes and vaping products. While most insurers have already categorized smokers and vapers in the same risk cohort, the reinsurance

industry has released new guidance to insurers regarding young users of vaping products and vaping products containing THC. It has been reported that three reinsurance companies have issued additional warnings to insurers regarding users of vaping products, particularly those who use vaping products containing THC.

The U.S. Centers for Disease Control and Prevention has urged consumers against using THC e-cigarettes because they also contain vitamin E acetate, which has been associated to the outbreak of lung injuries. French reinsurer, SCOR, went as far to recommend that insurance companies avoid insureds who use e-cigarettes containing THC, and Swiss Re has asked insurers to make extra checks on whether vapers are using THC products. At this point, no insurer has changed their underwriting practices to treat young vapers differently from older vapers; however, one insurance company suggested that might change if vaping related illnesses continue to predominately affect the younger demographic.

Life insurance rates for vapers currently reflect the rates for smokers among most insurers. This may change, however, as researchers have more time to investigate long-term health effects of vaping. According to Stephen Cooley, Chief Medical Underwriter at PartnerRe Life & Health, the best-case scenario is for vaping rates to stay consistent with smokers, but more research may eventually mean that vaping rates exceed those applied to smokers.

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## **Washington Update**



This Week in Washington with Armstrong Robinson  
December 6, 2019

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### **Republican Retirements: Blue Wave, Red Tide, or status quo?**

Nineteen Republican Members of the House of Representatives have announced their retirements from Congress this year. While this sounds consequential and [has raised alarm bells in the media](#), these retirements likely do not signal serious changes to come in the party make up in the House. Not every retirement is the same, but we do see a trend of Republicans announcing retirements from largely red districts that President Trump won in 2016, and this is cycle actually has fewer GOP retirements than in the past. While it is doubtful that a plurality of these districts will turn blue, it is likely that some of the replacements for these Members of Congress will be more in line with Trump based off candidates we see emerging and the President's 2016 performance. Using hard data along with [race ratings](#) and [Partisan Voting Index \(PVI\)](#) from the reliable [Cook Report](#), we can see the whole picture more clearly.

>> [Click here to dive deeper](#)

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# DECEMBER 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6 Congressional Primary Filing Deadline: California	7
8	9 Congressional Primary Filing Deadline: Texas	10	11	12	13	14
15	16	17	18 Congressional Primary Filing Deadline: Ohio	19 Democratic Debates in L.A. - Watch on CNN or PBS	20 Congressional Primary Filing Deadline: North Carolina	21
22	23	24	25	26	27	28
29	30	31				

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## In Case You Missed It

### [WR Marketplace – Year-End Planning](#)

As 2020 approaches, year-end planning considerations for clients include: (1) making use of temporarily higher transfer tax exemptions; (2) managing market gains in 2019; (3) planning to take advantage of continued low interest rates; (4) closing life insurance transactions; and (5) monitoring developments in generational split-dollar.

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### [WR Newswire – TFCV Final Rule and 1035 Exchanges Made by Businesses](#)

On October 31, the Treasury Department released its final regulations on Reportable Policy Sales (RPS) final rule. In addition to clarifying the tax implications for company-owned life insurance (“COLI”) and bank-owned life insurance (“BOLI”) transferred in ordinary course transactions, the rule also cemented the Treasury Department’s position on how the requirements will apply with respect to section 1035 exchanges made by businesses.

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[Senator Kamala Harris has dropped out of the Democratic presidential race.](#)

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[Congress releases 2020 calendar.](#)

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[Podcast: Best Interest Standard of Care Regulations – Where Are We Now?](#)

Brad Campbell (Partner, Drinker Biddle) and AALU’s David Hollingsworth discuss the latest developments in best interest standard of care regulations. From the SEC and New York, to upcoming DOL proposals and the NAIC’s work on a new annuity standard, Brad and David breakdown the different rules and what they mean for producers. They also spent time on the impacts for independent producers and wholesalers.

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**Questions?**

Contact [support@aalu.org](mailto:support@aalu.org)

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