

Annuities and the New Fiduciary Rule

By Bill Schmick

In April, the Department of Labor's new rules go into effect. Essentially, the regulation will require the financial sector to act as a fiduciary when advising consumers on their retirement plans and accounts. For those who sell annuities, this will fundamentally change their industry.

Let me first state that I am not a fan of annuities (whether fixed or variable), and have written several columns over the years warning investors away from these instruments. I have received a great deal of hate mail from the insurance industry as a result. So be it. I think they are expensive, illiquid, the sales materials misleading and not appropriate for most investors.

The crux of the matter is that thanks to the DOL ruling, brokers (insurance or otherwise) will no longer be able to sell these investments to retirement plans and accounts based on suitability alone. In 2017, in order to sell these products, a broker must prove that their purchase is in the *client's best interest*.

That is going to require a comprehensive client analysis similar to one that is usually performed by a financial planner. Issues such as whether a broker is giving prudent advice (as opposed to simply acceptable advice) will come into play as will loyalty to the client. Most consumers are not aware that the sale of annuities was not governed by federal suitability rules. Instead, individual states regulated annuity products and what was suitable varied from state to state.

Now a whole host of factors will need to be examined, such as the desire of a client for income and how much and at what age, and the client's likelihood of staying in the product for the life of the agreement (since most annuities have steep penalties for selling early). The client's life longevity is also important, as will be any potential gap between covering one's expenses in retirement and the promised income stream of the annuity.

Issues such as the amount and percentage of fees a client will pay over the life of the contract will now have to be explained clearly, as will the exact amount of baseline guaranteed income promised. Questions that are normally seldom addressed, such as provisions that give the insurer the right to increase fees and what are the income step-ups based on market performance, must be answered.

Another issue that is usually glossed over by the selling agent is the insurer's financial health. You see, annuities are *not* insured by the FDIC, but solely by the credit worthiness of the insurer issuing the annuity. There are some who question whether the variable annuity side of insurance will be able to survive this additional scrutiny.

The Insured Retirement Institute, which monitors annuity sales, reported that revenues in the third quarter of 2016 dropped 8.2% to \$51.3 billion and 12.3% from the \$58.3 billion in sales in the third quarter of 2015. That's not the end of the world. I don't underestimate the ability of insurers to bounce back. But if annuities are to survive, then the game plan must change dramatically and in favor of the consumer. It will be interesting to see how the industry handles the change.

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Book Talk

Nutshell by Ian McEwan
Nan A. Talese, 2016

Reviewed by Ken Wilkins

Look who's talking

Ian McEwan's works are no stranger to this column. He may be my favorite living novelist (the late Nadine Gordimer still takes first place), and *Atonement* remains his masterpiece. Here, however, his work is unique: this is a tale told by a near-term fetus, whose knowledge of events is limited by what he can hear through his mother's abdominal wall. Who but McEwan could pull this off? A device that might quickly become tiresome remains vibrant to the last page.

The novel's opening sentences should be required reading for any creative writing student: "So here I am, upside down in a woman. Arms patiently crossed, waiting, waiting and wondering who I'm in, what I'm in for." Who could put down such a book? We quickly learn that this fetus is no ordinary homunculus, but rather a gifted observer of life and a smart commentator on the issues of today.

But first, to the immediate, pressing issue: his mother, Trudy, has tired of John, his father, and has taken a lover, who turns out to be his father's brother Claude. Our narrator's impression of his father is that he is a failed poet who struggles to make ends meet as a publisher. His uncle, however, has more money but is a lesser intellect. Trudy's son is not impressed.

We also discover that Trudy and Claude are plotting to murder John, and the unborn child hears the grisly details of their plan, which they naively think is beyond detection. They plan to spike his smoothie with ethylene glycol (antifreeze), and arrange things to make it look like suicide. I promise no further plot revelations, so you'll have to discover what unfolds by reading yourself.

McEwan uses this short novel to riff on many of the political problems of our day by allowing his precocious narrator to listen to the podcasts his mother favors during times of relaxation. Our imperfect observer gets both sides of questions. He hears pessimism "that the Russian state was the political arm of organised crime," and that "Europe . . . [is] in existential crisis, fractious and weak as varieties of self-loving nationalism sip that same tasty brew." Or that "the United States, barely the hope of the world, [is] guilty of torture, helpless before its sacred text conceived in an age of powdered wigs, a constitution as unchallengeable as the Koran. Its population obese, fearful, tormented by inarticulate anger, contemptuous of governance, murdering sleep with every new handgun."

And, on the other hand, optimism: how can we worry when "humanity has never been so rich, so healthy, so long-lived . . . When smallpox, polio, cholera, measles, high infant mortality, illiteracy, public executions and routine state torture have been banished from so many countries?" When we have "pain-free dentistry, electric light, instant contact with people we love . . . ?"

But our fetus is like me. "Who knows what's true? . . . Every proposition is matched or cancelled by another. Like everyone else, I'll take what I want, whatever suits me." Here, ultimately, is what McEwan is writing about: our present-day existence and how "to be" in such a world. Will we succumb to nuclear holocaust or to rising sea-levels and scorching temperatures? Are prognosticators wrong, and someone will be writing book reviews in the next millennium? How can an individual make a difference?

Nutshell, a short novel, packs a punch that belies its length. The plot is interesting with a unique narrator, and the book's underlying premise is nothing less than to ask the crucial question that confronts the world today. Look who's talking, indeed.