

# Field Bulletin



SECURITY MUTUAL LIFE  
INSURANCE COMPANY OF NEW YORK  
BINGHAMTON • NEW YORK

January 21, 2011

## NYID Regulation 194 – Producer Compensation Disclosure

The following is intended to supplement Field Bulletin 0012701, dated December 14, 2010, regarding New York State Producer Compensation Disclosure – Regulation 194. Effective January 1, 2011, producers in New York State are required to disclose various information to their clients regarding their role in and the compensation to be received for selling an insurance contract. In this Field Bulletin we address questions that have been raised regarding this Regulation.

1. The Regulation requires that producers provide a **mandatory** Initial (Step One) Disclosure, either orally or in a prominent writing at the time of application. If the producer elects to provide the required disclosure orally, then the producer must disclose the information to the purchaser in a prominent writing no later than the issuance of the insurance contract. Please see the attached Producer Compensation Disclosure Statement that you may wish to use to comply with the Step One Disclosure requirement. Copies of this form are available exclusively through Security Link. Additionally, this form has been added to the New York application packets for each of the products available for sale through Security Mutual.
2. A Step Two Disclosure Statement is required **ONLY** if the purchaser requests additional information from the producer.

If a request is made by the purchaser, the producer must disclose the following information in writing, prior to the issuance of the policy:

- Description of the nature, amount and source of any compensation to be received by the producer or any parent, subsidiary or affiliate of the producer based in whole or in part on the sale;
- Description of any alternative quotes presented by the producer, including the coverage, premium and compensation that the insurance producer or any parent subsidiary or affiliate of the producer would have received based in whole or in part on the sale of any such alternative coverage;
- Description of any material ownership interest the insurance producer or any parent, subsidiary or affiliate of the producer has in the insurer issuing the insurance contract or any parent, subsidiary or affiliate of such insurance company;
- Description of any material ownership interest the insurer issuing the insurance contract or any parent, subsidiary or affiliate of such insurance company has in the insurance producer or any parent, subsidiary or affiliate of the producer; and
- A statement whether the insurance producer is prohibited by law from altering the amount of compensation received from the insurer based in whole or part on the sale.

Please be advised that if a producer does **not** know the nature, amount or value of compensation at the time of disclosure, the producer must include the following in the disclosure:

- A description of the circumstances that may determine the receipt and amount or value of such compensation; and
- A reasonable estimate of the amount or value of such compensation, which may be stated as a range of amounts or values.

To assist you in responding to a request for additional information from a purchaser, Security Mutual has developed the accompanying template document for use. As noted in Circular Letter No. 18 (2010) issued by the New York Insurance Department (copy provided previously), a producer may state the amount of known compensation to be received in a number of different ways, including:

- The dollar amount expected to be received
- The total amount expected to be received as a percentage of one year of premium
- As a percentage of the total premium paid over the expected average duration of the policy or contract.

For the later alternative to be acceptable, the disclosure must state (1) the expected duration used (which must take account of appropriate mortality and termination rates for the kind of policy being sold, and (2) that most of the compensation is paid in the first year if such is the case, or that most of the compensation is paid in the first 5 years if such is the case. Example: *"I expect to receive from the insurer 6% of the total premium you pay on this policy if you keep the policy in place for 14 years which is the expected average duration of this type of policy. Most of the compensation will be paid in the first year."*

For compensation that is not known at the time of disclosure, because its value depends on some future occurrence such as meeting sales volumes or persistency objectives, a reasonable estimate of the value of such compensation must be provided. The producer may estimate this amount in a number of ways, for example:

- As a reasonable range of percentages of premium based on the amount of such compensation the producer has received on the sale of similar policies in prior years.
- As a reasonable range of dollar amounts based on the amount of such compensation the producer has received on the sale of similar policies in prior years.
- As an additional range of percentages of the total premium paid over the expected average duration of the policy or contract.

Security Mutual understands that producers may need assistance in providing the amount of compensation to be received, specifically if the producer elects to provide both cash and non-cash compensation to be received over the expected average duration of the product sold. If a request for additional information is received from the purchaser and you require our assistance in complying with the regulation, please contact:

For Group Insurance products: Refer your request to the Group Marketing & Sales Support at [Groupquote@smlny.com](mailto:Groupquote@smlny.com) or call 1-800-927-8846.

For all other products: Refer your request to the Agency Department—Sean O'Neill at [soneill@smlny.com](mailto:soneill@smlny.com), or 1-800-346-7171, ext. 7333.

Attached is a sample Step Two Disclosure Statement that a producer can use to comply with Section 30.3 (b) of the Regulation. This sample is provided as a courtesy only. This Disclosure Statement is appropriate for use only if the insurance policy or contract is to be issued by Security Mutual and all compensation derived from the sale is paid to you by Security Mutual. Should you wish to use a Step Two Disclosure Statement that shows only one of the recognized methods of stating the amount of known and unknown compensation, upon request, a sample document will be made available.

Both sample Disclosure Statements—Step One (form 0012701NY) and Step Two (form 0012724NY)—are available exclusively through SecurityLink.

**PLEASE NOTE – It is the producer's responsibility to retain copies of the disclosures provided in the client's file. Such records must be kept for at least three years after the disclosure is given. Copies of the disclosures need not be sent to the Company.**

3. Please note that Regulation 194 does not apply to certain situations including:
  - The placement of reinsurance;
  - An insurance producer who has no direct sales or solicitation contact with the purchaser, which may include wholesale brokers or managing general agents;
  - A sale of insurance by a person who is not required to be licensed as an insurance producer for purposes of the sale; or
  - Renewals, except that if the purchaser requests more information about the producer's compensation less than 30 days prior to a renewal or less than 30 days after the renewal, such information must be provided in writing by the producer within five business days.

### **Compliance with this Regulation is the Producer's responsibility.**

Please take the time to familiarize yourself with the requirements of the Regulation. If you have any questions, please contact the undersigned.



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Frederick L. Wortman, CLU, ChFC, FLMI,  
RHU, ACS, AIAA, REBC, AIRC, AAPA  
Executive Vice President, Administration and  
Chief Compliance Officer

Attachments: Producer Compensation Disclosure Statement, Form No. 0012702NY  
Additional Producer Compensation Disclosure, Form No. 0012724NY

# (Sample Step One Disclosure Statement)

## Producer Compensation Disclosure Statement

Insured/Annuitant Name: \_\_\_\_\_

Owner/Annuitant Name: \_\_\_\_\_

The following disclosure is provided pursuant to New York State Insurance Department Regulation No. 194 (11 NYCRR 30.1 *et seq.*)

\_\_\_\_\_ (the “producer”) is an insurance producer licensed by the State of  
(Agent Name)

New York. Insurance producers are authorized by their license to confer with insurance purchasers about the benefits, terms and conditions of insurance contracts; to offer advice concerning the substantive benefits of particular insurance contracts; to sell insurance; and to obtain insurance for purchasers. The role of the producer in any particular transaction typically involves one or more of these activities.

Compensation will be paid to the producer, based on the insurance contract the producer sells. Depending on the insurer(s) and insurance contract(s) the purchaser selects, compensation will be paid by the insurer(s) selling the insurance contract or by another third party. Such compensation may vary depending on a number of factors, including the insurance contract(s) and the insurer(s) the purchaser selects. In some cases, other factors such as the volume of business a producer provides to an insurer or the profitability of insurance contracts a producer provides to an insurer also may affect compensation.

The insurance purchaser may obtain information about compensation expected to be received by the producer based in whole or in part on the sale of insurance to the purchaser, and (if applicable) compensation expected to be received based in whole or in part on any alternative quotes presented to the purchaser by the producer, by requesting such information from the producer.

I have read and understand the information contained in this disclosure:

\_\_\_\_\_ Date \_\_\_\_\_  
(Purchaser Signature)

\_\_\_\_\_ Date \_\_\_\_\_  
(Producer Signature)

### Instructions:

1. Agent to retain the original; copy to be provided to purchaser.
2. A copy of this form **is not** required to be submitted to the Insurance Company.
3. Producer must keep a copy of this form for at least three years from the date the disclosure is given.

# (Sample Step Two Disclosure Statement)

## ADDITIONAL PRODUCER COMPENSATION DISCLOSURE

Name of Producer: \_\_\_\_\_

Name of Insurance Company: \_\_\_\_\_

Product Type: \_\_\_\_\_

- (1) The following is a description of the nature, amount and source of compensation to be received by the insurance producer or any parent, subsidiary or affiliate of such producer, based in whole or in part on the sale of the insurance policy or contract.

*For purposes of the required disclosure "compensation" includes anything of value, including money, credits, loans, interest on premium, forgiveness of principal or interest, trips, prizes or gifts, whether paid as commission or otherwise. "Compensation" does not include tangible goods with the insurer's name, logo or other advertisement and having an aggregate value of less than \$100 per year per insurer.*

### Expected Cash Compensation (select one from the choices below)

- ☐ **Total Dollar Amount.** Compensation to be described as the total dollar amount expected to be received based in whole or in part on the sale.

The insurer will compensate the producer \$ \_\_\_\_\_ based on the sale of this policy.

- ☐ **Percentage of One Year of Premium.** Compensation to be described as the total amount expected to be received based in whole or in part on the sale stated as a percentage of one year of premium.

The insurer will compensate the producer \$ \_\_\_\_\_ based on \_\_\_\_% of one year of premium of \_\_\_\_\_.

- ☐ **Percentage of Total Premium Over Expected Average Duration of the Policy.** Compensation to be disclosed as a percentage of the total premium paid over the expected duration of the policy or contract.

The Insurer will pay the producer \_\_\_\_% of the total premium paid on the policy if such policy remains in force for \_\_\_\_ years, which is the expected average duration of this type of policy or contract. Most of that compensation will be paid in the [ ] first year or [ ] first five years.

### Estimate of Contingent Compensation (select one from the choices below)

Contingent compensation is payable only if certain contingencies occur, such as the insurance producer satisfying prescribed sales volume, the policy remaining in force for a minimum period or other conditions.

- ☐ **Range of Percentages.** The contingent compensation the producer will receive is estimated to be between \_\_\_\_% and \_\_\_\_% based on sales of similar policies in prior years.

- ☐ **Range of Total Dollar Amount.** The contingent compensation the producer will receive is estimated to be between \$ \_\_\_\_\_ and \$ \_\_\_\_\_ based on sales of similar policies in prior years.

- ☐ **Range of Percentages Over Expected Average Duration of the Policy.** The insurer will pay the producer between \_\_\_\_% and \_\_\_\_% of the total premium paid on this policy if such policy remains in force for \_\_\_\_ years which is the expected average duration of this type of policy. Most of this compensation will be paid in the [ ] first year or [ ] first five years or [ ] will be paid evenly over the life of the insurance policy.

***Compensation paid to a producer for various sales may not be readily comparable due to differences in insurance companies, distribution (selling) systems and compensation structures.***

- (2) The following is a description of any alternative quotes presented by the producer, including the coverage, premium and compensation that the insurance producer or any parent, subsidiary or affiliate of the insurance producer would have received based in whole or in part on the sale of any such alternative coverage.

☐ [None]

☐ [See attached schedule]

- (3) The following is a description of any material ownership interest the insurance producer or any parent, subsidiary or affiliate of the insurance producer has in the insurance company issuing the insurance contract or any parent, subsidiary or affiliate of the insurance company.

☐ [None]

☐ [The insurance company is a mutual company and is owned by its policyholders.]

- (4) The following is a description of any material ownership interest the insurer issuing the insurance contract or any parent, subsidiary or affiliates of the insurance company has in the insurance producer or any parent, subsidiary or affiliate of the insurance producer.

☐ [None]

☐ [See attached schedule]

- (5) The following is a statement whether the insurance producer is prohibited by law from altering the amount of compensation received from the insurer based in whole or in part on the sale.

The insurance producer is prohibited by law from rebating compensation to the insured or policy owner or providing an inducement to purchase or retain insurance. The New York Insurance law also limits the form and amount of compensation that may be paid to a producer for the sale of life insurance policies and annuity contracts.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

#### **SIGNATURES:**

Insurance Purchaser (proposed owner): \_\_\_\_\_

Insured (if other than proposed owner): \_\_\_\_\_

Producer: \_\_\_\_\_

#### **INSTRUCTIONS:**

- Producer to retain original for three years from the date the disclosure is given to the purchaser.
- Purchaser to be provided a copy of the disclosure.

Note: A copy of this form need not be sent to the Insurance Company.