

Field Bulletin



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New York Insurance Regulation 187 Suitability in Annuity Transactions

The New York Department of Financial Services has promulgated Regulation 187, which is designed to require insurers to set forth standards and procedures for recommendations to consumers with respect to annuity contracts so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

New York Regulation 187 is substantially similar to the National Association of Insurance Commissioners' Suitability in Annuity Transactions Model Regulation for annuities, and the Financial Industry Regulatory Authority's (FINRA) current National Association of Securities Dealers ("NASD") Rule 2310 for securities. To date, more than 45 states have implemented the NAIC Model, while NASD Rule 2310 has applied nationwide for more than 20 years.

The Regulation requires that the insurance producer must have reasonable grounds for believing that the recommendation is suitable for the consumer based on the facts disclosed by the consumer as to the consumer's investments and other insurance policies or contracts and as to the consumer's financial situation and needs. Prior to the recommendation of a purchase or replacement of an annuity contract, the insurance producer must make reasonable efforts to obtain the consumer's suitability information.

The producer must inform the consumer of various features of the annuity contract, such as the potential surrender period and surrender charge, availability of cash value, potential tax implications if the consumer sells, surrenders or annuitizes the contract, death benefit, potential charges for and features of riders, guaranteed interest rates and other factors.

The insurer is required to establish a supervision system that is designed to achieve the insurer's and producers' compliance with the Regulation. The insurer is also responsible for ensuring that every insurance producer selling its annuity contracts is adequately trained to recommend its products. These requirements do not apply to annuities used to fund an employee pension, profit sharing plan, Section 403(b) plan, simplified employee pension, simple retirement account, a government or church plan, a deferred compensation plan of a state or local government (a Section 457 plan), or a nonqualified deferred compensation plan of an employer or plan sponsor.

In order to ensure compliance with Regulation 187, Security Mutual will continue to require an Annuity Suitability Statement (Form No. 0011414) to be completed and signed by the consumer (and any joint applicants/owners) and the producer at the time the application is taken. There is a provision in the form pursuant to which the consumer may decline to provide the requested information if he or she so chooses.

In addition, the consumer and producer must sign an Annuity Disclosure document which contains detailed information about the particular annuity contract that the consumer is purchasing. For the 1 year interest rate guarantee period SPDA, use Form No. 0012795; for the 3 year interest rate guarantee period SPDA, use Form No. 0012796; for the 5 year interest rate guarantee period SPDA use Form No. 0012797, and for the Single Premium Immediate Annuity use Form No. 0012358.

Finally, the producer will be required to complete a brief product training module regarding the Company's annuity products. The training course will be available online through the Company's website, which will produce a record reflecting the fact that the training module has been reviewed by the producer. (Details to be provided separately.)

The Annuity Suitability Statement is an existing requirement with regard to all annuity sales. The Annuity Disclosure Statement and producer training requirements became effective with regard to any annuity application taken or submitted to the Home Office, on or after June 30, 2011. For all situations, a completed Annuity Suitability Statement, annuity application, product specific Annuity Disclosure Statement, and replacement paperwork if applicable, must be submitted to the Home Office. Evidence that the producer has completed the product training module prior to taking the application is required and will be provided by the training vendor.

A signed copy of the Annuity Suitability Statement and Annuity Disclosure Statement must be left with the consumer and a copy retained in your client file for seven years after the annuity is issued, or the length of time specified by state regulation. General Agents should carefully review the Annuity Suitability Statement submitted by producers contracted through them before submitting the Statements to the Home Office.

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