ANNUITY “BEST INTEREST” RE-CERTIFICATION CLASS

CLASS NARRATIVE- TO ACCOMPANY PREVIOUSLY APPROVED CLASSROOM AGENDA

PROVIDER NUMBER: 79671

COURSE ID: 128297

<u>DEFINING BEST INTEREST STANDARD OF CONDUCT</u>

In February of 2020, the National Association of Insurance Commissioners (NAIC) approved revisions to their *Suitability in Annuity Transactions Model Regulation.* This Model is the basis for all Annuity regulations in most states (45 states), including the state of Texas.

In this revised regulation, the concept of "Best Interest" was introduced.

Under the new "Best Interest" Standard, agents and insurers must place the "Best Interest" of the consumer ahead of their financial interests when recommending a purchase, exchange or replacement of an annuity product. They must exercise "reasonable diligence, care and skill" when recommending an annuity by making appropriate recommendations.

To satisfy the best interest obligation, agents must:

- Know the consumer's financial situation, insurance needs, and financial objectives;
- Understand the available recommendation options;
- Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial, insurance needs and financial objectives;
- Communicate the basis of the recommendation to the consumer;
- Disclose their role in the transaction, their compensation; and
- Document, in writing, any recommendation and the justification for such recommendation.

As an agent, you must be familiar with the annuity options available; have you informed the consumer of the important features of the annuity such as surrender periods, surrender charges, any potential tax penalties, or market risks? Do you have a reasonable basis for believing the consumer would benefit from certain features of an annuity, and have you communicated the reason(s) for your recommendation? The agent must also make a reasonable effort to obtain a consumer's profile information before making a product recommendation, and **documentation is critical to support an agent's reason for making a certain recommendation.**

A "recommendation" is advice provided by an agent to an individual consumer that was intended to result or does result in a purchase, an exchange, or a replacement of an annuity in accordance with that advice.

A "recommendation" does not apply to information collected by the consumer to make a purchase that was obtained solely through emails, the Internet, general educational information, prospectuses, sales material or other mass communication media.

WHY THIS CHANGE?

For the past 11 years the NAIC has been using the "suitability standard" as the model to regulate annuity sales. The "Best Interest" Model, used by the Securities and Exchange Commission (SEC), is a higher standard than the 2010 "suitability standard".

The NAIC, to further protect consumers with an enhanced standard of conduct, has been working for several years to amend their annuity sales regulations. **The NAIC believes that consumers are better protected when there is compatibility between the regulations enforced by the states, the SEC and the DOL (Department of Labor).**

The NAIC originally projected to have all regulations in place by the end of 2020, however there were some delays due to the COVID-19 pandemic.

In Texas, all new regulations, policies and procedures, must be set in place by all insurers by **January 1, 2022.**

NEW SALES/APPROPRIATE PRACTICES

With the new standard of conduct, insurers are prohibited from providing sales contests, quotas, bonuses, and non-cash compensation based on the sale of specific annuities within a limited period of time.

Example of an inappropriate sales practice – When an insurer offers a particular bonus for the sales of a particular annuity during a particular month, this is not appropriate under the new regulations.

Example of an appropriate sales practice - an insurer offers general incentives regarding sales of their company's products where there is no emphasis on the sale of specific annuities within a limited period of time.

The new model for the sale of annuities wants to ensure that agents are impartial with their recommendations.

RECORDKEEPING

All agents must maintain or be able to make available records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for the annuity transaction. These records must be kept for a minimum of **5 years** after the insurance transaction is completed by the insurer.

Records can be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media that accurately reproduces the actual document.

REPLACEMENTS

If an annuity transaction results in an exchange or replacement, the agent must take into consideration when determining whether or not the annuity is suitable, if the consumer:

- Will incur a surrender charge
- Will be subject to a new surrender period
- Will lose existing contract benefits
- Will be subject to increased fees
- Will be subject to Investment advice fees
- Has had a replacement in the last 36 months

Documentation of these considerations is once again critical for the agent.

In addition to the above documentation, the agent must complete a Replacement form (ALL AGENTS ARE FAMILIAR WITH THIS FORM, BUT WILL SHOW IT ANYWAY) if the sales transaction has resulted from an exchange or a replacement.

DISCLOSURE REQUIREMENTS

We will now review and discuss the 3 new required forms. After each form is presented, agents may ask questions to clarify any confusion.

FORM 194 - THE ANNUITIES I CAN SELL AND HOW I'M PAID – this form lets the consumer know what the qualifications the agent has, what types of products he is licensed to sell, how many companies he can sell for, and the type of compensation he receives.

FORM 195 - CLIENT REFUSES TO PROVIDE INFORMATION- this form is used if a consumer refuses to provide some or all of their profile information that is necessary in order for the agent to to make an informed recommendation. A "Does Not Apply" box is available to check if this form does not apply to the sales transaction.

FORM 196 - I AM BUYING AN ANNUITY THE AGENT DID NOT RECOMMEND - this form is to acknowledge that the client is making an annuity purchase that the agent did not recommend. A ''Does Not Apply'' box is available to check if this form does not apply to the sales transaction.