

- (7) Storage tank gauging device calibration records; and
- (8) Testing records for aboveground and underground piping; and

D. Retain the following AST system records for the operational life of an AST system and for at least 5 years after an AST system has been permanently closed in accordance with Regulation .12 of this chapter:

- (1) Construction records, including records of:
 - (a) The AST name plate information;
 - (b) The original as-built specifications and drawings and any modifications made to the AST system during the operational life of the AST system;
 - (c) Applicable manufacturer's documentation for ancillary equipment;
 - (d) Tests conducted upon completing an installation or repair of an AST system component, including hydrostatic testing and pressure tightness testing;
 - (e) Material tests and analyses, including secondary containment dike permeability tests;
 - (f) Tank strapping record; and
 - (g) The names of the companies performing construction activities and a description of the work performed;
- (2) Cathodic protection system inspections records for impressed current and galvanic systems, including records of:
 - (a) Cathodic protection system design description;
 - (b) Inspection findings and conclusions;
 - (c) Recommendations; and
 - (d) Testing and repair records;
- (3) A complete copy of each final formal inspection report;
- (4) A complete copy of each ultrasonic thickness inspection report;
- (5) Records of AST system repairs and alteration history, including names of companies completing repair work;
- (6) Records of secondary containment dike testing and evaluation;
- (7) Records of spills, releases, and discharges and written reports of the occurrences required by COMAR 26.10.01.05E; and
- (8) A closure report for an AST system permanently closed in accordance with Regulation .12 of this chapter.

BENJAMIN H. GRUMBLES
Secretary of the Environment

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 09 LIFE INSURANCE AND ANNUITIES

31.09.12 Suitability in Annuity Transactions

Authority: Insurance Article, §§2-109(a), 4-113, 10-126(a)(13) and (d), 27-102, 27-202, and 27-203, Annotated Code of Maryland

Notice of Proposed Action

[22-031-P]

The Insurance Commissioner proposes to repeal existing Regulations .01—.11 and adopt new Regulations .01—.13 under COMAR 31.09.12 Suitability in Annuity Transactions.

Statement of Purpose

The purpose of this action is to repeal current Regulations .01—.11 and adopt new Regulations .01—.13 under COMAR 31.09.12 Suitability in Annuity Transactions to conform to recent changes to the National Association of Insurance Commissioners (NAIC) Suitability in Annuity Transactions Model Regulation #275 which were approved by the NAIC in February 2020. Model Regulation #275 sets forth standards and procedures for recommending annuity products to consumers to ensure their insurance and financial objectives are appropriately addressed.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The revised regulations include new required disclosure forms and acknowledgement forms that insurers and producers must use in connection with sales of annuities. There may be system costs and printing costs to the industry as a result of the new required forms, but these costs should be minimal.

II. Types of Economic Impact.	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE		
B. On other State agencies:	NONE		
C. On local governments:	NONE		
	Benefit (+)	Cost (-)	Magnitude
D. On regulated industries or trade groups:			
Administrative cost	(-)		Minimal
E. On other industries or trade groups:	NONE		
F. Direct and indirect effects on public:	NONE		

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. The revised regulations include new required disclosure forms and acknowledgement forms that insurers and producers must use in connection with sales of annuities. There may be systems costs and printing costs to the industry as a result of the new required forms, but these costs should be minimal.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Lisa Larson, Director of Regulations, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2007, or email to insurancereview.mia@maryland.gov, or fax to 410-468-2020.

Comments will be accepted through February 28, 2022. A public hearing has not been scheduled.

Note: The forms referenced in Regulations .11—.13 of this chapter appear at the end of the Proposed Action on Regulations section of this issue.

.01 Purpose.

A. The purpose of this chapter is to require producers to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers, at the time of the transaction, are effectively addressed.

B. Nothing provided in this chapter shall be construed to create or imply a private cause of action for a violation of this chapter or to subject a producer to civil liability under the best interest standard of care outlined in Regulation .04 of this chapter or under standards governing the conduct of a fiduciary or a fiduciary relationship.

.02 Scope.

A. In General. This chapter applies to each recommendation to purchase, exchange, or replace an annuity made to a consumer by a producer, or an insurer if no producer is involved, that results in the purchase, exchange, or replacement recommended.

B. Exceptions. Unless otherwise specifically included, this chapter does not apply to transactions involving:

(1) Direct response solicitations if there is no recommendation based on information collected from the consumer pursuant to this regulation;

(2) Contracts used to fund:

(a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act;

(b) A plan described by 26 U.S.C. §§401(a), 401(k), 403(b), 408(k), or 408(p) if established or maintained by an employer;

(c) A government or church plan defined in 26 U.S.C. §414, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under 26 U.S.C. §457; or

(d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(3) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(4) Formal prepaid funeral contracts.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined:

(1) "Annuity" means an annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity.

(2) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

(3) "Comparable standards" means:

(a) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest and any amendments or successor regulations thereto;

(b) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the

fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940, including, but not limited to, the Form ADV and interpretations; and

(c) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

(4) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

(a) Age;

(b) Annual income;

(c) Financial situation and needs, including debts and other obligations;

(d) Financial experience;

(e) Insurance needs;

(f) Financial objectives;

(g) Intended use of the annuity;

(h) Financial time horizon;

(i) Existing assets or financial products, including investment, annuity and insurance holdings;

(j) Liquidity needs;

(k) Liquid net worth;

(l) Risk tolerance, including, but not limited to, willingness to accept non-guaranteed elements in the annuity;

(m) Financial resources used to fund the annuity; and

(n) Tax status.

(5) "Continuing education credit" or "CE credit" means 1 hour of continuing education as defined in COMAR 31.03.02.02B(9).

(6) "ERISA" means the Employee Retirement and Income Security Act.

(7) "Financial professional" means a producer that is regulated and acting as:

(a) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

(b) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or

(c) A plan fiduciary under 29 CFR §2510.3-21 or fiduciary under 26 U.S.C. §4975(e)(3), or any amendments or successor statutes thereto.

(8) "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

(9) "Insurer" has the meaning stated in Insurance Article, §1-101(v), Annotated Code of Maryland.

(10) "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.

(11) Material Conflict of Interest.

(a) "Material conflict of interest" means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation.

(b) "Material conflict of interest" does not include cash compensation or non-cash compensation.

(12) "Non-cash compensation" means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

(13) "Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-

guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(14) "Producer" means:

(a) A licensed insurance producer as defined in Insurance Article, §1-101(w), Annotated Code of Maryland; and

(b) An insurer if no producer is involved.

(15) "Provider" has the meaning stated in COMAR 31.03.02.02B(15).

(16) Recommendation.

(a) "Recommendation" means advice provided by a producer 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.

(b) "Recommendation" does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(17) "Replacement" has the meaning stated in COMAR 31.09.05.03B(11).

(18) "SEC" means the United States Securities and Exchange Commission.

.04 Best Interest Obligations.

A. The requirements under this regulation do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in this chapter.

B. A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known by the producer at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest.

C. A producer is considered to be acting in the best interest of the consumer if the producer satisfies the obligations described in §§D—G of this regulation.

D. Care Obligation.

(1) The producer, in making a recommendation, shall exercise reasonable diligence, care, and skill to:

(a) Know the consumer's financial situation, insurance needs, and financial objectives;

(b) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;

(c) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

(d) Communicate the basis or bases of the recommendation.

(2) The requirements under §D(1) of this regulation include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(3) The requirements under §D(1) of this regulation require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives.

(4) The requirements under §D(1) of this regulation do not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation.

(5) Producers shall be held to standards applicable to producers with similar authority and licensure.

(6) The factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives are the consumer

profile information, characteristics of the insurer, and product costs, rates, benefits, and features.

(7) The level of importance of each factor described in §D(6) of this regulation may vary depending on the facts and circumstances of a particular case, but each factor may not be considered in isolation.

(8) The requirements under §D(1) of this regulation include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.

(9) The requirements under §D(1) of this regulation apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

(10) The requirements under §D(1) of this regulation do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(11) The requirements under §D(1) of this regulation do not mean the producer has ongoing monitoring obligations under the care obligation under this section, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising or financial planning agreement between the consumer and the producer.

(12) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

(a) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living, or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

(b) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(c) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

(13) Nothing in this chapter shall be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this State, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this chapter, provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

E. Disclosure Obligation.

(1) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose the following information to the consumer:

(a) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

(b) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

- (i) Fixed annuities;
- (ii) Fixed indexed annuities;
- (iii) Variable annuities;
- (iv) Life insurance;
- (v) Mutual funds;
- (vi) Stocks and bonds; and
- (vii) Certificates of deposit;

(c) An affirmative statement describing the insurer the producer is authorized, contracted, appointed, or otherwise able to sell insurance products for, using the following descriptions:

- (i) One insurer;
- (ii) From two or more insurers; or

(iii) From two or more insurers although primarily contracted with one insurer;

(d) A description of the sources and types of cash compensation and non-cash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other producer or by fee as a result of a contract for advice or consulting services; and

(e) A notice of the consumer's right to request additional information regarding cash compensation described in §E(3) of this regulation.

(2) The disclosure described in §E(1) of this regulation shall be in a format substantially similar to that specified in Regulation .11 of this chapter.

(3) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

(a) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

(b) Whether the cash compensation is a one-time or multiple occurrence amount and, if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages.

(4) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or other options of the annuity, limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance and investment components, and market risk.

(5) The disclosure obligation under §E of this regulation is intended to supplement and not replace the disclosure requirements under COMAR 31.15.04.05.

F. Conflict of Interest Obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

G. Documentation Obligation.

(1) At the time of recommendation or sale, a producer shall:

(a) Make a written record of any recommendation and the basis for the recommendation subject to this regulation;

(b) Obtain a consumer signed statement documenting:

(i) A consumer's refusal to provide the consumer profile information, if any; and

(ii) A consumer's understanding of the ramifications of not providing the consumer's consumer profile information or of providing insufficient consumer profile information; and

(c) Obtain a consumer signed statement acknowledging the annuity transaction is not recommended if a consumer decides to enter into an annuity transaction that is not based on the producer's recommendation.

(2) The statement described in §G(1)(b) of this regulation shall be in a format substantially similar to that specified in Regulation .12 of this chapter.

(3) The statement described in §G(1)(c) of this regulation shall be in a format substantially similar to that specified in Regulation .13 of this chapter.

H. Application of the Best Interest Obligation.

(1) Any requirement applicable to a producer under this subsection shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer.

(2) Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

I. Transactions Not Based on a Recommendation.

(1) Except as provided under §I(2) of this regulation, a producer shall have no obligation to a consumer under §§B—G of this regulation related to any annuity transaction if:

(a) No recommendation is made;

(b) A recommendation is made and is later found to have been prepared based on materially inaccurate information provided by the consumer;

(c) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or

(d) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

(2) An insurer's issuance of an annuity subject to §I(1) of this regulation shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

.05 Supervision System.

A. Except as permitted under Regulation .04I of this chapter, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

B. An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this regulation, including, but not limited to, the following:

(1) The insurer shall establish and maintain reasonable procedures to inform its producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant producer training manuals;

(2) The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its producers to comply with the requirements of Regulation .08 of this chapter;

(3) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its producers;

(4) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. Such review procedures may:

(a) Apply a screening system for the purpose of identifying selected transactions for additional review; and

(b) Be accomplished electronically or through other means including, but not limited to, physical review. An electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(5) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with Regulations .04, .06, and .07 of this chapter. An insurer may comply with this section by applying sampling procedures or by

confirming the consumer profile information or other required information under this section after issuance or delivery of the annuity. The procedures described in this section may include, but are not limited to:

- (a) Confirmation of the consumer's profile information;
 - (b) Systematic consumer surveys;
 - (c) Producer and consumer interviews;
 - (d) Confirmation letters;
 - (e) Producer statements or attestations; or
 - (f) Programs of internal monitoring;
- (6) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this Regulation .04 of this chapter;
- (7) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;
- (8) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time;
- (9) The requirements of §B(8) of this regulation are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees if those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and
- (10) On an annual basis, the insurer shall provide a written report to senior management, including to the senior manager responsible for audit functions, that details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

C. Nothing in this regulation restricts an insurer from contracting for performance of a function, including maintenance of procedures, required under this regulation.

D. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to Regulation .09 of this chapter, regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with this section. An insurer's supervision system under this regulation shall include supervision of contractual performance under this regulation, including, but not limited to:

- (1) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and
- (2) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

E. An insurer is not required to include in its system of supervision:

- (1) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or
- (2) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

.06 Prohibited Practices.

A producer or insurer may not dissuade or attempt to dissuade a consumer from:

- A. Truthfully responding to an insurer's request for confirmation of the consumer profile information;
- B. Filing a complaint; or
- C. Cooperating with the investigation of a complaint.

.07 Safe Harbor.

A. Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this chapter.

B. This regulation applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue.

C. Nothing in this regulation shall limit the Commissioner's ability to investigate and enforce the provisions of this chapter.

D. Nothing in §A of this regulation shall limit the insurer's obligation to comply with Regulation .05A of this chapter, although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

E. For §A of this regulation to apply, an insurer shall:

(1) Monitor the relevant conduct of the financial professional seeking to rely on §A of this regulation or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws using information collected in the normal course of an insurer's business; and

(2) Provide to the entity responsible for supervising the financial professional seeking to rely on §A of this regulation, such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

F. A financial professional who is not explicitly acting in compliance with the relevant comparable standards is not eligible for the safe harbor under §A of this regulation and is subject to compliance with the requirements of this chapter.

.08 Producer Training.

A. A producer may not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training.

B. A producer may rely on insurer-provided product-specific training standards and materials to comply with §A of this regulation.

C. Training Requirements.

(1) A producer who engages in the sale of annuity products shall complete a one-time four-credit training course approved by the Maryland Insurance Administration and provided by a Maryland Insurance Administration approved education provider.

(2) A producer who holds a life insurance line of authority on the effective date of this regulation and who desires to sell annuities shall complete the requirements of §C(1) of this regulation within 6 months after the effective date of this regulation.

(3) An individual who obtains a life insurance line of authority on or after the effective date of this regulation may not engage in the sale of annuities until the annuity training course required under §C(1) of this regulation has been completed.

(4) The minimum length of the training required under §C(1) of this regulation shall be sufficient to qualify for at least four continuing education credits but may be longer.

(5) The training required under §C(1) of this regulation shall include information on the following topics:

- (a) The types of annuities and various classifications of annuities;
- (b) Identification of the parties to an annuity;
- (c) How product-specific annuity contract features affect consumers;

(d) The application of income taxation of qualified and non-qualified annuities;

(e) The primary uses of annuities; and

(f) Appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

(6) Providers of courses intended to comply with §C(1) of this regulation:

(a) Shall cover all topics listed in the prescribed outline;

(b) May not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products; and

(c) May offer additional topics in conjunction with and in addition to the required outline.

(7) A provider of an annuity training course intended to comply with §C(1) of this regulation shall comply with the rules and guidelines applicable to producer continuing education courses as set forth in COMAR 31.03.02.

(8) Within 6 months after the effective date of this regulation, a producer who has completed an annuity training course approved by the Maryland Insurance Administration prior to the effective date of this regulation shall complete either:

(a) A new four-credit training course approved by the Maryland Insurance Administration after the effective date of this regulation; or

(b) An additional one-time one-credit training course approved by the Maryland Insurance Administration and provided by the Maryland Insurance Administration approved education provider on appropriate sales practices, replacement, and disclosure requirements under this chapter.

(9) Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with COMAR 31.03.02.

(10) A provider of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with COMAR 31.03.02.

(11) The satisfaction of the training requirements of another state that are substantially similar to the requirements of this section shall be deemed to satisfy the training requirements of this regulation.

(12) The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of §C of this regulation shall be deemed to satisfy the training requirements of this regulation.

(13) An insurer shall verify that a producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer.

(14) An insurer may satisfy its responsibility under this regulation by obtaining certificates of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

.09 Compliance and Penalties.

A. An insurer is responsible for compliance with this chapter.

B. If a violation of this chapter occurs, because of either the action or the inaction of the insurer or its producer, the Commissioner may order:

(1) An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its producer's, violation of this chapter;

(2) A general agency, independent agency, or a producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this chapter; and

(3) Appropriate penalties and sanctions.

C. Penalties.

(1) A producer who violates this chapter is subject to a penalty or other appropriate sanction under Insurance Article, §10-126, Annotated Code of Maryland.

(2) An insurer that violates this chapter is subject to a penalty or other appropriate sanction under Insurance Article, §4-113, Annotated Code of Maryland.

.10 Record Keeping.

A. Insurers, general agents, independent agencies, and producers shall maintain or be able to make available to the Commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 7 years after the insurance transaction is completed by the insurer.

B. An insurer is permitted, but is not required, to maintain documentation on behalf of a producer.

C. Records required to be maintained by this regulation may be maintained in paper, photographic, micro processed, magnetic, mechanical, or electronic media, or by any process that accurately reproduces the actual document, if the copy of the record is maintained in a manner that:

(1) Is clear and legible;

(2) Accurately reproduces the original document in its entirety, including any attachments to the document;

(3) Is capable of producing a clear and legible hard copy of the original document; and

(4) Preserves evidence of any signature contained on the document.

.11 Producer Disclosure for Annuities Form.

The form to be used for providing the disclosure required by Regulation .04E(1) of this chapter can be found here:

.12 Consumer Refusal to Provide Information Form.

The form to be used for obtaining the consumer signed statement required by Regulation .04G(1)(b) of this chapter can be found here:

.13 Consumer Decision to Purchase Annuity Not Based on Recommendation Form.

The form to be used for obtaining the consumer signed statement required by Regulation .04G(1)(c) of this chapter can be found here:

KATHLEEN A. BIRRANE
Insurance Commissioner

INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES
Do Not Sign Unless You Have Read and Understand the Information in this Form

Date: _____

INSURANCE AGENT (PRODUCER) INFORMATION (“Me”, “I”, “My”)

First Name: _____ Last Name: _____

Business\Agency Name: _____ Website: _____

Business Mailing Address:

Business Telephone Number:

Email Address:

National Producer Number “NPN” in Maryland:

CUSTOMER INFORMATION (“You”, “Your”)

First Name: _____ Last Name: _____

What Types of Products Can I Sell You?

I am licensed to sell annuities to You in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds, also may meet Your needs.

I offer the following products:

- Fixed or Fixed Indexed Annuities
- Variable Annuities
- Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

- Mutual Funds
- Stocks/Bonds
- Certificates of Deposits

Whose Annuities Can I Sell to You?

I am authorized to sell:

<input type="checkbox"/> Annuities from Only One (1) Insurer	<input type="checkbox"/> Annuities from Two or More Insurers
<input type="checkbox"/> Annuities from Two or More Insurers although I primarily sell annuities from:	

How I'm Paid for My Work:

It's important for You to understand how I'm paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by the consumer. If You have questions about how I'm paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

- Commission, which is usually paid by the insurance company or other sources. If other sources, describe: _____.
- Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), which are usually paid directly by the customer.
- Other _____ (Describe): _____.

If You have questions about the above compensation I will be paid for this transaction, please ask Me.

I may also receive other indirect compensation resulting from this transaction (sometimes called "non-cash" compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

Drafting Note: This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with more precise disclosure, including a written consulting, advising or financial planning agreement.

By signing below, You acknowledge that You have read and understand the information provided to You in this document.

Customer Signature

Date

Agent (Producer) Signature

Date

CONSUMER REFUSAL TO PROVIDE INFORMATION

Do Not Sign Unless You Have Read and Understand the Information in this Form

Why are you being given this form?

You're buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company needs information about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets your needs, objectives and situation. You may lose protections under the Insurance Article, Annotated Code of Maryland if you sign this form or provide inaccurate information.

Statement of Purchaser:

- I **REFUSE** to provide this information at this time.
- I have chosen to provide LIMITED information at this time.

Customer Signature

Date

Consumer Decision to Purchase an Annuity NOT Based on a Recommendation

Do Not Sign This Form Unless You Have Read and Understand It.

Why are you being given this form? You are buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company has the responsibility to learn about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you know that you're buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or company did not recommend that I buy it. If I buy it **without a recommendation**, I understand I may lose protections under the Insurance Article, Annotated Code of Maryland.

Customer Signature

Date

Agent/Producer Signature

Date