



TheStandard®

Producer Advisory

Date: November 4, 2009
To: Annuity Sales Representatives of The Standard in Florida
Individual Annuities
From: Diane Hodgman, ChFC
Compliance Analyst, Individual Annuities

State: Florida
Rule: 69B-162.011
Effective: December 25, 2009
Subject: Suitability and Disclosure in Annuity Contracts – Forms Required

On December 25, Florida annuity producers will be required to use two new forms when they sell annuities to seniors. Florida's [Annuity Suitability Questionnaire](#) and [Disclosure and Comparison of Annuity Contracts](#), which the 2008 amendment of Florida's suitability law required the Florida Department of Financial Services (DFS) to create by regulation, were adopted on October 28 and will be effective December 25, 2009.

In 2008, amendments to Florida suitability law made changes to how a producer collects information from seniors to determine an annuity's suitability and, in the case of a replacement or exchange, compares the client's older contract with a recommended one. Although the law applies to annuity sales to seniors – defined as persons age 65 or older – The Standard requires suitability analysis in sales of its annuities to clients of any age.

The Standard is combining the required information on Florida's two new forms with our own suitability and replacement forms. While our forms are being prepared for the December 25 effective date, please continue to use our current forms for Florida new business. We will notify you when the updated forms are available for your use.

Details

Florida's senior suitability law requires annuity producers to use state-approved forms to collect 1) detailed client information documenting that an annuity sale is suitable for the client, and 2) for replacements, a detailed comparison of the current and proposed contracts. Additionally:

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- A copy of each form must be provided by the producer to the insurer within 10 days after execution of the form,
 - A copy of each form must be provided to the consumer no later than the date of delivery of the contract, and
 - The producer must retain the original form, along with any information collected or used during the sale to determine suitability.

The senior consumer must sign a statement on the suitability form acknowledging that if he declines to provide the requested information or provides inaccurate information, he or she is limiting the protection afforded by Florida statutes regarding the suitability of the purchase.

1. Suitability Analysis – Data gathering & analysis

Before executing a purchase or exchange of an annuity resulting from a recommendation to a senior consumer (age 65 or older), a producer shall make reasonable efforts to obtain information concerning the suitability of the senior consumer's financial status, tax status, and investment objectives and such other information used or considered to be reasonable by the producer in making the recommendation. The information shall include, at a minimum:

- ♣1. Personal information, including the age and sex of the parties to the annuity and the ages and number of any dependents;
- 2. Tax status of the consumer;
- 3. Investment objectives of the consumer
- ♣4. The source of the funds to be used to purchase the annuity;
- 5. The applicant's annual income;
- ♣6. Intended use of the annuity;
- 7. The applicant's existing assets, including investment holdings;
- ♣8. The applicant's liquid net worth and liquidity needs;
- ♣9. The applicant's financial situation and needs;
- 10. The applicant's risk tolerance;
- 11. Such other information used or considered to be relevant by the insurance agent or insurer in making recommendations to the consumer regarding the purchase or exchange of an annuity contract.

♣ Different from what is on The Standard's current suitability form, or stated significantly differently

2. Suitability of an Exchange or Replacement

Prior to the execution of a replacement or exchange for a senior consumer, the producer shall provide, on a form adopted by rule by the department, information concerning differences between each existing annuity contract and the annuity contract being recommended in order to determine the suitability.

A true and correct executed copy of this form shall be provided by the agent to the insurer within 10 days after execution of the form, and shall be provided to the consumer no later than the date of delivery of the contract or contracts.

The information shall include, at a minimum:

1. A comparison of the benefits, terms, and limitations between the annuity contracts.
2. A comparison of any fees and charges between the annuity contracts.
3. A written basis for the recommended exchange, including the overall advantages and disadvantages to the consumer if the recommendation is followed.
4. Such other information used or considered to be relevant by the insurance agent or the insurer in making recommendations to the consumer regarding the replacement or exchange of an annuity contract.

3. Warning about Tax Consequences

Prior to the execution of a purchase or exchange of an annuity contract resulting from a recommendation to a senior consumer, an agent shall also disclose to the consumer that such purchase or exchange may have tax consequences and that the applicant should contact his or her tax advisor for more information.