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Oceanview

Compliance Corner

This document is prepared to provide general information only. Oceanview Life and Annuity Company does not give legal, tax, or investment advice. Please consult your own advisor for these matters. Oceanview Life and Annuity is committed to keeping our IMO's and Agents aware of important regulatory and compliance issues. We hope you find this Compliance Newsletter to be engaging and informative. If you have any questions, comments or concerns regarding any article in this publication, please email us at info@oceanviewinsurance.com.

NAIC Best Interest Training Requirements

UPDATE**

Adoption of the latest version of the NAIC Annuity Suitability Model Regulation (NAIC Model-275) is picking up steam. In the past couple of months, **seventeen** states: (Alabama, Arizona, Arkansas, Connecticut, Delaware, Idaho, Iowa, Kentucky, Maine, Michigan, Montana, Nebraska, North Dakota, Ohio, Rhode Island, Texas and Virginia) have all now joined. This regulation adds several new requirements to producer responsibilities when selling annuities. One of these new responsibilities is an additional training requirement.

Most states that have adopted the Model thus far give existing producers six months from the effective date of the regulation to take an abbreviated 1-hour "best interest" training course, which can be taken through many typical electronic training platforms (i.e.: QuestCE, RegEd etc.).

Like the earlier versions of the suitability model, states are recognizing similar training courses that were taken to satisfy other state's requirements, so you will likely only need to sit for the course once for all of the states you are licensed in.

As of October 1, 2021, this window has now closed in Arizona, Iowa, Ohio and Rhode Island, with Nebraska and Michigan coming soon (12/29/2021). You will find the full listing of additional state training requirements here: State Training Requirements. If you are licensed after the effective date of the regulation, or don't complete the 1-hour course prior to the deadline, you will need to take a 4-hour best interest course in order to solicit annuities.

BOTTOM LINE: If you're licensed in one of these states listed above, work with your agency or IMO and take the available course when you're able. And, once you have, send us certification of course completion: Form and Submission Instructions

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DOL Fiduciary Rule is baaack...

It's baaaack! While in this case, "it" isn't referring to the spooky ghosts occupying TV sets or even the clown from "It", this version of "it" may be just as terrifying for unsuspecting producers soliciting IRAs. But, fear not, for there are ways to manage through this.

First, let's take a quick look back. The Department of Labor (DOL) penned a highly controversial Fiduciary Rule in 2016 (it was actually the Department's second version of the rule.) A series of legal challenges eventually resulted in the Fifth Circuit vacating it in March 2018.

Undaunted, in June 2020, the DOL released Ruling 3.0, detailing a new interpretation of 1975 five-part test used to determine if sales agents are ERISA fiduciaries while also extending its reach in the rollover setting and proposing a new exemption for what it termed "conflicted investment advice" and principal transactions. The ruling was formally adopted in December 2020, and the Biden administration allowed it to take effect in February 2021. Initially, the temporary enforcement policy was scheduled to sunset on December 20, 2021, but on October 25, 2021, the Department announced it would not enforce the specific documentation and disclosure requirements until July 1, 2022. If further delayed full compliance with other aspects of the Ruling until February 1, 2022.

So...what does all this mean? This new interpretation of the five-part test means that sales agents may be acting in a fiduciary capacity when selling qualified annuities (IRAs). During the temporary enforcement policy, sales agents can comply with the rule when making such sales through DOL's "Impartial Conduct Standard" which simply requires that an agent always "act in the best interest of their clients." Things get a bit more complicated in 2022, however.

From July 1, 2022 forward, barring any additional changes to the existing rule, agents who are deemed fiduciaries in a sales transaction cannot be compensated on that sale without first complying with a prohibited transaction exemption (PTE). Ruling 3.0 created a new PTE, 2020-02 which requires:

1. that the agent acknowledges, in writing, that he/she is a fiduciary to the customer and
2. an insurance company perform an annual comprehensive review of agent compensation, conflicts of interest, and sales practices

Oceanview believes that this new exemption is not practical for independent producers, and we do not intend to use it. Instead, before the end of the temporary enforcement period, we will be providing our independent agents and IMOs with tips on how to comply with DOL standards through expanded training on the interpretation of the five-part test and on PTE 84-24, which requires a simple compensation and product disclosure applicable to insurance and annuities. While we do not provide legal advice, we believe that adherence to the provisions of PTE 84-24 satisfies the guidelines of DOL's Ruling 3.0. However, if you feel you need further guidance given your circumstances, we encourage you to consult your agency or personal counsel. In the meantime, stay tuned for more information.

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Qualified Charitable Distributions

A Qualified Charitable Distribution ("QCD") from an IRA or beneficiary inherited IRA can be an ideal way for your clients to meet their Required Minimum Distribution (RMD) requirements, but there are a few important rules that need to be followed in order to process these correctly.

A QCD is a direct transfer of funds from an IRA custodian, payable to a qualified charity. QCDs can be counted toward satisfying RMDs for the year, as long as these rules are met:

- Must be 70½ or older to be eligible to make a QCD, typically 72 for most traditional IRAs.
- QCDs are limited to the amount that would otherwise be taxed as ordinary income. This excludes non-deductible contributions.
- The maximum annual amount that can qualify for a QCD is $100,000. This applies to the sum of QCDs made to one or more charities in a calendar year. (If, however, your client files taxes jointly, his or her spouse can also make a QCD from their own IRA within the same tax year for up to $100,000.)
- For a QCD to count towards the current year's RMD, the funds must come out of an IRA by the RMD deadline, generally December 31.
- Contributing to an IRA may result in a reduction of the QCD amount that can be deducted. (The aggregate amount of deductible IRA contributions made to an IRA after the age of 70 1/2 will reduce the amount of the QCD that is not includible in gross income.)
- Any amount donated above a client's RMD does not count toward satisfying future year RMD's.
- Funds distributed directly to the IRA owner, and which is then given to charity do not qualify as a QCD. Be sure to have these transactions processed as a transfer directly from Oceanview or other financial institution to the qualified charity.
- Most distributions from Roth IRAs do not qualify as a QCD, however, there are a few exceptions. You or your clients should seek advice from a qualified tax consultant for specifics.

The charity receiving the funds needs to be a 501(c)(3) organization, but not all charities qualify for QCDs, including:

- o Private foundations
- o Supporting organizations: i.e., charities carrying out exempt purposes by supporting other exempt organizations, typically other public charities
- o Donor-advised funds, which public charities manage on behalf of organizations, families or individuals

If your client is interested in a QCD, you can use this form (QCD form) to process the distribution from their Oceanview annuity. Remember that any distribution taken prior to the first contract anniversary is subject to a surrender charge. Please visit the IRS web site at: www.irs.gov, or contact a professional tax advisor for more information.