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A reminder about the NAIC training requirements in Montana

IMPORTANT: Agents licensed in Montana prior to the effective date must complete additional CE training by April 1, 2022 in Montana as applicable. See the agent bulletin for details.

This memo is addressed to all Independent Marketing Organizations and any other intermediaries that are part of the compensation hierarchy for any producer selling F&G products. The term IMO—as used here—includes all marketing organizations, insurance agencies, brokerage firms, broker-dealers, and any other person or entity involved in distribution of annuities.

On October 1, 2021, Montana implemented the revised National Association of Insurance Commissioners (NAIC) **Suitability in Annuity Transactions Model Regulation** which incorporates best interest requirements into existing suitability regulations. Additional states are likely to adopt the revised regulation in the months ahead. For a list of states that have adopted the updated NAIC model regulation, view our **NAIC Best Interest Regulation Adoption Chart**.

F&G is rolling out enhancements designed to address these new requirements where applicable. We shared a bulletin with our appointed producers licensed in Montana to advise them of their duties and responsibilities under the new regulatory requirements and provide them applicable documentation.

The bulletin included the following:

- **Best Interest Supplement form and instructions**
- **Insurance Agent Disclosure for Annuities form and instructions**
- **New training and continuing education requirements**
- **Supplemental Cash Compensation Disclosure form and instructions**
- **Best Interest Addendum to the F&G Market Conduct Guide (see addendum following page 33)**

As additional states adopt the revised NAIC best interest requirements, we plan to share similar bulletins with agents licensed in those states. We ask for your assistance in helping F&G educate producers about the importance of complying with these additional requirements.

F&G also wants to ensure IMO's are up-to-date on our expectations regarding these new regulations.

We specifically want to call your attention to:

- 1. New forms:** F&G has two new forms that must be submitted with every annuity application for applications to be deemed in good order — the Best Interest Supplement form and the Insurance Agent Disclosure for Annuities form.
- 2. Compensation disclosure:** F&G also provided agents with a form to disclose their cash compensation if requested by a consumer as required by the new NAIC requirements – the Supplemental Cash Compensation Disclosure Form. IMO's should make sure agents have necessary information to complete the form fully and accurately. To the extent IMO's or their downlines pay any cash compensation to agents other than commissions paid by F&G, IMO's must ensure that information is available to agents in a form that can be disclosed to the consumer. That includes without limitation any additional commissions, any potential bonuses and any cash compensation paid to a “licensed only agent.” The agent is required to disclose such information on the “other” line provided on the form. IMO's should familiarize themselves with the form and instructions to facilitate compliance.
- 3. Communication to agents:** The revised NAIC regulation indicates the best interest requirements apply to any producer who exercises material control or influence in the making of an annuity recommendation, even if the producer has no direct contact with the client. Certain activities are excluded, such as providing marketing or educational materials, product wholesaling and general supervision. We strongly encourage IMO's to explicitly communicate to agents — preferably in writing — that agents exercise independent judgement in making recommendations and that you are not seeking to control or direct their sales recommendations when providing support services.

Compensation methods: The revised NAIC regulation requires insurers to establish reasonable procedures to identify and eliminate sales contests, sales quotas, bonuses and non-cash compensation that are based on the sales of specific annuities within a limited period of time. According to an accompanying drafting note, the intent of this provision is to prohibit incentives that promote a particular product during a limited period of time, but not prohibit general incentives regarding sale of a company's products with no emphasis on any particular product.

As a general rule, F&G believes these restrictions prohibit targeted incentives that apply to specifically named products rather than a class of products and that tend to be shorter-term in nature (such as measuring sales over weeks or months rather than general compensation paid on an annual or longer-term basis). For example, the NAIC has published guidance saying this provision would apply where an agent's eligibility for a particular bonus is tied to the agent's sales of a particular annuity product during a particular month. F&G asks IMO's, agencies and agents to help by making reasonable efforts to identify and eliminate any such compensation practices within their own systems that may relate to F&G annuity products.

F&G recognizes there could be an adjustment period for the insurance industry. We welcome your insights on the best interest requirements as we navigate these new regulations together.

Our goal remains the same: to provide outstanding service to you, so you can deliver high-quality products and meet clients' financial needs and objectives.

Questions? Contact us at 800.445.6758 or SalesDesk@fglife.com.

“F&G” is the marketing name for Fidelity & Guaranty Life Insurance Company issuing insurance in the United States outside of New York. Life insurance and annuities issued by Fidelity & Guaranty Life Insurance Company, Des Moines, IA.

The information provided in this memo is solely intended to promote compliance with the new NAIC regulations. Nothing herein should be construed as legal advice.

