



**NEW YORK STATE INSURANCE REGULATION 187
SUITABILITY AND BEST INTEREST
IN LIFE INSURANCE AND ANNUITY TRANSACTIONS
CHECKLIST**



This checklist is to help Producers determine if they are properly following the “best interest” rules that go in affect in August 2019 for any transaction or recommendation with respect to a proposed or in-force policy in the state of New York.

| | Y | N | | Y | N |
|---|--------------------------|--------------------------|---|--------------------------|--------------------------|
| ▶ Duties of producers* with respect to sales transactions: | | | | | |
| ▶ Producer shall act in best interest of the consumer by determining: | | | | | |
| ▶ Is recommendation based upon relevant suitability? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Does producer have appropriate skill and has producer shown care and diligence with only the consumer considered? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Is the sales transaction suitable for consumer? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Is it reasonable basis for the producer to believe? | | | | | |
| ▶ Consumer has been reasonably informed of policy features and consequences both favorable and unfavorable including: | | | | | |
| ▶ Surrender charges and duration? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Guarantees of death benefit and charges? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Equity-index (if applicable) features? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Availability of cash value? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Potential tax consequences of policy? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Death benefit? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Charges including: | | | | | |
| a. Mortality and expense fees? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| b. Cost of insurance? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| c. Investment advisory fees? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Exclusions and restrictions? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Available riders, their benefits and costs? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Interest return limitations? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Market risks? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Differences in fee-based and commission based versions of policy and how producer is compensated? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ Consumer would benefit from certain features of policy? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ The particular policy as a whole is appropriate for the particular consumer? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| ▶ For replacements, appropriate consideration has been given to: | | | | | |
| ▶ Costs? | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| | | | | | |
| | | | ▶ Whether the consumer would benefit from product enhancements and improvements such as: | | |
| | | | a. Decreased premium or fees? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | b. Increased income? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | c. Increased coverage? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | d. Increased policy duration? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Has the consumer had another replacement within 36 months? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ In providing a recommendation, has the producer given weight to: | | |
| | | | ▶ Benefits of the new policy? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ The price of the new policy? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ The financial strength of the insurer? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Other factors that differentiate products or carriers? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Prior to recommendation, has the producer made reasonable attempts to obtain appropriate suitability information? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ The producer does not have an obligation to consumer under section 1 if: | | |
| | | | ▶ Has no recommendation been made? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Has a recommendation been made prepared on unknown materially inaccurate consumer information? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Has the consumer refused to provide suitability information? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Did the consumer decide to enter into a sales transaction not based upon the producer’s recommendation? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ At the time of a recommendation, did the producer: | | |
| | | | ▶ Disclose to the consumer all relevant suitability considerations and product information both favorable and unfavorable in reasonable summary format? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Document the basis for recommendation and supporting facts? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ If relevant, document the consumer’s refusal to provide suitability information? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Did the producer document any sales transaction entered into based upon consumer’s decision that is not based upon the producer’s recommendation? | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | ▶ Did all producers that materially participated and received compensation follow the rules under these regulations? | <input type="checkbox"/> | <input type="checkbox"/> |





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▶ **Duties of producers* with respect to in-force transactions:**

- ▶ Producer shall act in best interest of the consumer determining that:
 - ▶ Does recommendation reflect care, skill, prudence and diligence of a prudent person with only the interest of the consumer considered?
 - ▶ Was amount of compensation considerations excluded from influencing recommendation?
 - ▶ Does a reasonable basis exist to believe consumer has been informed of relevant features of policy and potential consequences of in-force transaction (both favorable and unfavorable)?
- ▶ Have the rules been applied to all producers that materially participated and received compensation?
- ▶ Does the producer have adequate knowledge before making a recommendation for an in-force transaction?

▶ **Actions Not Allowed by Producers*:**

- ▶ The producer may not make a recommendation solely based upon illustrations.
- ▶ The producer may not make a recommendation to a consumer to enter into a sales transaction without adequate knowledge.
- ▶ The producer may not dissuade or attempt to dissuade a consumer from:
 - ▶ Truthfully responding to insurer's request for confirmation of suitability information.
 - ▶ Filing a complaint with superintendent.
 - ▶ Cooperating with the investigation of a complaint.
- ▶ The producer may not use "financial planner," "financial advisor" or similar title if not properly certified and actually provides financial services.
- ▶ The producer may not state that recommendation was based upon comprehensive financial planning or financial advice, investment management or related terminology without appropriate required certification to give such advice.

Y N

▶ **Actions Allowed by Producers*:**

- ▶ Nothing in these rules shall be construed to prohibit the payment of cash or non-cash compensation to producer of a recommendation that is otherwise permitted.
- ▶ The producer may limit recommendation based upon a captive or affiliation agreement as long as such affiliation is adequately disclosed and any recommendation is within the best interest of the consumer.

▶ **Insurer responsibility and supervision:**

- ▶ Insurer shall not effectuate a sales transaction unless reasonable basis to believe the transaction is suitable based on consumer's information.
- ▶ Insurer shall establish, maintain and audit a system to ensure compliance. The insurer may contract system of supervision to third party.
- ▶ Insurer must design product line variation sin compensation to comply with NY law and regulations and avoid recommendations by producers not in best interest of consumers.
- ▶ Insurer shall establish and maintain procedures to prevent financial exploitation and abuse.
- ▶ Insurer of an in-force policy shall provide consumer all policy information reasonably requested.
- ▶ Insurer shall take appropriate corrective action for any harmed consumer.

* Rules for "producer" also apply to insurer where no producer is involved

