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## INSURER: FIDELITY & GUARANTY LIFE INSURANCE COMPANY

We know you share our commitment to good sales practices when selling annuity products. An important regulatory requirement that must be followed is to recommend purchasing an annuity to a client *only if* there are reasonable grounds for believing the annuity is suitable. This question and answer guide is intended to help you understand what that means and how our company administers suitability requirements.

To fully understand our approach to suitability, you should familiarize yourself with these key documents:

- **Suitability Acknowledgement Form** (ADMIN 5463)
- **Suitability Instructions and Definitions** (ADMIN 5542)
- **Agent Suitability Guide** (ADMIN 5627)
- **Fidelity & Guaranty Life Market Conduct Guide** (ADMIN 5516)
- **Replacement Comparison Form** (ADMIN 5766)

If you take the time to study these materials, you will better understand our program and also help ensure your clients' applications get processed as quickly as possible.

## Why is Suitability So Important?

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In selling annuity products, it is important that agents assist clients in determining which products are appropriate for their financial situation based on financial needs and objectives as disclosed by the client during the sales process. It is also very important that agents give clients the information necessary to make well-informed decisions relating to the purchase of an annuity. These two pillars of good sales conduct – understanding your customer's needs and objectives and providing full disclosure - are not only requirements of law, they are also dictated by our company's code of ethical conduct to ensure we are always acting in a manner consistent with our clients' interests.

## Why does Fidelity & Guaranty Life Continue to Update Its Suitability Program?

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Suitability has been an evolving area for the insurance industry over the last several years. Fidelity & Guaranty Life – like many other companies – has taken steps to enhance its suitability procedures to keep pace with regulatory requirements and industry standards. Notably, in March 2010, the National Association of Insurance Commissioners (NAIC) adopted a revised model suitability regulation for annuity sales, imposing higher standards on agents and companies for addressing suitability. While that regulation has not yet been adopted in all states, Fidelity & Guaranty Life made the decision to adopt standards and procedures meeting the updated model requirements across the board in all states effective January 1, 2011. This meant modifying the company's Suitability Acknowledgment Form, adopting changes in our standards for reviewing the suitability of recommendations, and implementing stronger oversight procedures and controls. Since then, we have updated our program several times, often to make our forms easier to understand, clarify our standards, and make the program as efficient as possible consistent with our compliance responsibilities.

## What records am I supposed to keep?

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Our Suitability Acknowledgment Form is designed to capture essential information for you and your client to evaluate the suitability of an annuity recommendation. You must retain a copy of that form with the application and any other required state forms for the period of time required by your state for recordkeeping. Generally, we recommend you retain your records including a copy of the Suitability Acknowledgment Form for the life of the annuity plus any additional period prescribed by state insurance law. As part of your records, you should also keep copies of any notes or materials used in your discussions with your client so you can accurately recall the

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basis for recommending purchase of an annuity in case questions arise. An example of records that should be kept in your files for future reference would be any notes explaining the basis for coming up with your client's monthly income and expenses.

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**Must a suitability form be completed for every sale of any annuity?**

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Yes. A suitability form is required for the purchase of any of our annuities including deferred and immediate annuities and including both indexed and multi-year guarantee products. The form needs to be completed fully; i.e., no required item should be left blank and any inapplicable questions should be marked "N/A" if necessary. Also, we do not permit clients to opt out of providing information required by the form, and will decline any application where complete suitability information is not provided. If your client is concerned about privacy, you may assure your client that the information from the Suitability Acknowledgement Form will not be shared by the company with any third party for marketing purposes as explained in our privacy policy, and you should also describe your own privacy practices for handling personal financial information of your clients.

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**Can I get an advance indication from the company whether a sale will be suitable?**

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No. We are only staffed to handle live applications, not to discuss prospective sales situations in advance of receiving the suitability form and application. This helps us stay focused on processing incoming applications as quickly as possible. Any such advance indication would necessarily be conditional anyway since we need to see the full client profile before a formal decision can be made on suitability of a given recommendation.

However, we believe the information provided here, combined with your own professional judgment, and combined with general guidance you may receive from our sales support team, should enable you to anticipate our general expectations and requirements for suitability. You are always welcome to talk with our sales support team about our overall process and general requirements for suitability. They can be reached at 1-800-445-6758.

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**How exactly does your review process work?**

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When we get an application – together with the Suitability Acknowledgement Form – we will first make sure all information is completed properly including information on the Suitability Acknowledgement Form. If there is missing or incomplete information, we consider the application to be "not in good order" and may need to contact you to complete the forms properly. In some cases, the applicant's initials may also be necessary for changes on the form.

Assuming all paperwork is in good order, we will next screen the application to determine whether it meets our minimum criteria for suitability based on information contained on the Suitability Acknowledgement Form. Generally, our minimum criteria include:

- Remaining liquid assets (after purchase of the annuity) of at least \$20,000
- Remaining liquid assets (after purchase of the annuity) of at least six months of Approximate Monthly Household Expenses if employed or retired and twelve months of Approximate Monthly Household Expenses if unemployed
- Approximate Monthly Household Income of at least \$1500 (exceptions made for applicants with significant remaining liquid assets)
- Monthly Disposable Income of at least 10% of Approximate Monthly Household Income (exceptions made for applicants with significant remaining liquid assets)
- Surrender charges that are excessive based on the facts and circumstances.

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- A Replacement Comparison Form must be completed on all cases being replaced, this includes internal and external replacements.
- Annuities funded out of liquid assets not greater than 50% of Total Liquid Assets for applicants age 65 or over (exceptions made for applicants with significant remaining liquid assets)
- Annuities funded out of liquid assets not greater than 75% of Total Liquid Assets for applicants under age 65 (exceptions made for applicants with significant remaining liquid assets)
- Applicant may not have a reverse mortgage – regardless of whether the reverse mortgage is a source of funding for the annuity
- Applicant may not have an Aggressive Risk Tolerance if the annuity represents a significant percentage of Total Net Worth
- Anticipated distributions may not be within the surrender charge period unless distributions are surrender charge free or derived from the guaranteed minimum withdrawal rider
- Applicant must indicate remaining liquid assets are adequate to handle emergencies
- In cases of replacement, prior replacements within the prior 36 months (60 months for California or Minnesota applications) may not involve the same agent and same funds

Applications not meeting these criteria will usually be declined absent extenuating considerations. We purposely share the above criteria with you – our agents – so you know in advance about our minimum standards and can use them as guideposts for deciding whether an application should be submitted to our company for review.

Applications that meet these criteria are then put through an additional screen to determine whether the information on the Suitability Acknowledgement Form raises any other suitability concerns that may require follow up with you or your client. If so, the application is escalated for additional review by one of our reviewers or our Suitability Officer. In situations where we have follow up questions – it does not mean the annuity is unsuitable for your client – only that we need more information. In these cases, you may receive a follow up letter, email or phone call from us asking you to explain in greater detail why the annuity recommendation should be considered suitable.

Your prompt cooperation in these situations is appreciated so we can process the application as quickly as possible. Once we get the information back from you, the reviewer or our Suitability Officer will then determine whether we have received sufficient information to determine there are reasonable grounds for issuing the annuity.

Keep in mind that in most cases we are just asking for more information to better understand the justification for the recommendation of the annuity – and most often the annuity will be issued as applied for. However, in some cases, we may suggest reducing the size of the annuity or making other changes to address liquidity or other concerns, or we may decline the annuity if we believe reasonable grounds have not been established for determining the annuity is suitable based on information provided about the applicant's financial goals and circumstances.

## What are some factors that will trigger the need for additional information or concerns about suitability?

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Every application is different so there are no definitive rules. However, here are a few examples of factors that could trigger our request for more information:

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- The type of annuity does not appear to match the purpose of the annuity. For example, the annuity is a deferred annuity but the purpose for buying the annuity is immediate income. In those situations, we may need clarification to ensure the type of annuity matches the goals of the applicant.
- The applicant lives in a nursing home or assisted living facility. In those situations, we will likely need more information about the overall health condition of the applicant, the purpose of the annuity, whether future needs have been adequately considered, whether family members are involved in the purchase, and other kinds of information necessary to establish there are reasonable grounds to determine the annuity is suitable based on the client's financial goals and circumstances.
- The annuity is being purchased to qualify for government benefits. Whenever an annuity is being purchased to qualify for benefits such as Medicaid, we will likely request additional information about what government program is involved, how purchase of the annuity helps the applicant and/or applicant's spouse qualify for such benefits, whether the annuity is intended to help the applicant qualify right away or at some future date, to what extent other relatives may have been involved in the decision or planning process, and what other professionals were relied upon by the applicant (such as attorneys and accountants) in seeking such benefits and determining an annuity is appropriate. Often we will not issue an annuity in these situations unless the annuity is bought at the recommendation of a qualified attorney such as an Elder Care lawyer.
- The Suitability Acknowledgement Form indicates the applicant anticipates adverse changes in assets, living expenses, medical expenses, and/or income during the annuity's surrender charge period. If necessary, depending on what explanation is provided on the form, we may follow up to seek details on the nature and magnitude of such changes, how the applicant will adjust to such changes, and the extent to which those changes affect suitability of the annuity purchase.
- Surrender charges or penalties on replaced products exceed certain thresholds for older applicants. For applicants 65 and older we may request additional information about the replacement. A Replacement Comparison Form is required to be completed on all replacement cases, this includes internal and external replacements.
- If the source of funds used to purchase the annuity is cash value from a life insurance policy, a Replacement Comparison Form must be completed and we will likely request details on how the replacement is consistent with the financial and insurance needs of the applicant, as well as relevant information about the type of life insurance policy being replaced, the face amount, scheduled premiums, cost of insurance, other life insurance owned by the applicant, the insured's overall health, and changes in financial objectives. In these situations you may also be asked to provide a current statement and in-force policy illustration.
- The annuity – though funded with non-liquid assets – represents a significant percentage of the applicant's total financial wherewithal. In those situations, we may want additional information to assess whether the applicant's liquidity would be adversely affected by transferring assets from the existing non-liquid asset to our annuity. For example, we may seek information affirming the applicant understands using non-liquid funds to purchase the annuity means those funds will remain non-liquid for the life of the annuity, information about what kind of plan or annuity the funds are currently held in, what surrender charges or penalties apply to those funds, and when those funds will be free of penalties or surrender charges. This information will help us more accurately assess the applicant's liquidity following purchase of our annuity.

This is a sampling of the kind of follow-up questions you may get from us about suitability. It must be emphasized that every situation is unique and we will take into account specific circumstances when deciding whether there

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are reasonable grounds to believe the annuity is suitable. That is why we follow up with you to request additional information when escalation is triggered. It does not mean the annuity is unsuitable; it only means we need more information to assess whether there are reasonable grounds to determine the annuity is suitable based on the client's financial goals and circumstances.

Please note we reserve the right to change our minimum criteria or escalation guidelines as described above at any time. We periodically review our standards and adjust them as necessary based on various considerations.

### If I get a request for more information, what kind of information do you need?

If we request additional information by sending to you a suitability clarification letter or e-mail, it means we are looking to you for whatever information you think can help us better evaluate whether there are reasonable grounds for believing the annuity is suitable. Read the question carefully and try to answer the exact question. Even if you think you provided this information on the Suitability Acknowledgement Form, additional details can make a difference in helping us discern the complete rationale for the annuity purchase.

For example, we may need to better understand how the client will meet ongoing liquidity needs or potential emergencies, in the event the client has a high amount of short term debt. To the extent you can provide specifics explaining the make-up of the client's debt, when the debt comes due, whether payment of the debt is already included in monthly expenses listed on the Suitability Acknowledgment Form, and that the client has a plan for paying off the debt without affecting liquidity, that kind of specific information may enable us to determine the recommendation is appropriate and thus issue the annuity. Generic answers often are not helpful and may result in a decline or further follow up. You should also avoid making any casual or editorial comments since your answers become part of the official file and are discoverable in any legal proceedings or regulatory review; always try to answer the questions in a direct and professional manner.

### What happens if an application is denied for suitability reasons?

If it is necessary for the company to decline an application because we do not find reasonable grounds to determine the recommendation was suitable, then you will be informed of our decision to decline the application to avoid any surprise and allow you to discuss the matter further with your client. A letter will then be sent to your client along with a refund or an explanation that funds have been returned to the transferring company in cases of an exchange. In some situations, you may be able to sell the client a smaller sized annuity or possibly a different product with a shorter surrender period to address our suitability concerns. However, each situation is different, so you will need to evaluate the specific circumstances and discuss the matter with your client.

Keep in mind that our declination of an application for suitability reasons does not mean the recommendation was necessarily unsuitable. It only means the information supplied by you and your client – from the company's perspective – does not adequately establish reasonable grounds for believing the annuity is suitable.

### Whose suitability information should be collected?

When completing the Suitability Acknowledgement Form, you must provide financial information about the proposed owner of the annuity, assuming the proposed owner is a natural person. The form requires you to provide estimated financial information such as income, expenses, liquid assets, non-liquid assets, and liabilities.

In general, we are seeking household information, so ordinarily you should include combined financial information for the proposed annuity owner and the proposed annuity owner's spouse or any other household adult with whom the proposed annuity owner shares financial resources. Use good judgment on whether the proposed annuity

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owner is financially independent, in which case, you would only report information on the proposed annuity owner, or whether the proposed annuity owner is financially interdependent with a spouse or other household adult, in which case, household information is appropriate. Household information is used to develop the most accurate profile of the proposed annuity owner's financial circumstances.

Of course not all proposed annuity owners are natural persons. Here are basic rules to help you determine whose suitability information should be collected in various scenarios:

- If the proposed owner is a natural person, but not the same person as the annuitant, the suitability acknowledgment form should still be completed using the proposed annuity owner's information.
- If the proposed owner is a revocable trust, the form should be completed using the financial information of the grantor or settlor of the trust; i.e., the person who created the trust and has the legal right to revoke the trust.
- If the proposed owner is an irrevocable trust and the annuity is purchased in conjunction with or in close proximity to the creation of the trust, then ordinarily you should show the financial information of the grantor or settlor of the trust. If the trust predates and is independent of the purchase of the annuity, then ordinarily you should show the financial information of the trust itself. In all cases, be sure to explain (a) what is the purpose of the trust *and* (b) how does the annuity fit the purpose of the trust. This information may be provided on the Trust Certification Form required by the company with every annuity application made by an irrevocable trust. With irrevocable trusts, each situation is unique, so be prepared for possible follow up requests for additional information.
- If the proposed owner is a corporation, you will need to evaluate the nature of the corporation. If it is closely held, such as an S-corporation or another kind of corporation held mostly by a single person, the Suitability Acknowledgement Form should look through to the principal corporate owner. If the corporation is a traditional C-corporation in which no individual holds a majority share, the form should probably be completed with financial information of the corporation itself. Circumstances may vary so be prepared for possible follow up questions.

Please note the company reserves the right to request information about all parties involved in the transaction, including owners, annuitants, beneficiaries, and related parties such as trustees.

## Why does the Suitability Acknowledgement Form ask if multiple applications are being submitted for the same household?

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If you are submitting more than one annuity application for the same household, you are required to check the box at the top of the form stating that is the case. This includes any situation where you take more than one application for an individual person, or where you take joint applications for a husband and wife, or where you take multiple applications for members of the same household who share income and expenses or other finances. In each case, it is important that you check the box letting us know that multiple applications are being submitted so we can review all related applications together to assess suitability both on an individual policy and aggregate household basis.

Generally you will want to make sure that financial information on these Suitability Acknowledgement Forms are consistent to the extent they reflect the financial position of the same person or related persons within a household. We will use that information, together with the cumulative amount of premium being put into the combined annuities, to determine whether minimum suitability criteria are satisfied and whether any other

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suitability concerns are indicated. If minimum criteria are not satisfied or there are suitability concerns on either an individual policy or aggregate household basis, the company may decline all the policies, or may accept certain policies and decline others, in which case the client may keep the policy or return it to the company through free-look procedures. Of course we are hopeful, with the publication of our minimum suitability criteria, you will be able to help clients assess suitability on an individual policy and household basis so most policies can be accepted by the company.

Please note that the checkbox for multiple applications should be checked if more than one annuity from a household – including more than one annuity for an individual client – is purchased over a short period of time. While there is no hard and fast rule, generally any policy purchased within two months of another policy should be considered as being applied for at the same time for household purposes. However, you should use your own good judgment in determining whether the purchase of multiple annuities over time, even if beyond two months apart, are interconnected as part of a client plan that should be evaluated together for suitability purposes and check the box if that is the case.

## If I am an agent in Florida, what Suitability Acknowledgement Form do I use?

Florida has unique requirements for suitability and therefore you must use the Florida specific Annuity Suitability Questionnaire (Form # ADMIN 5603) and the Annuity Suitability Questionnaire Florida Supplement (Form # ADMIN 5671) for any business written on a Florida resident. Please refer to our October 1, 2013 bulletin with specific instructions on Florida Suitability Requirements. This bulletin can also be found on SalesLink.

## If I have further questions, whom should I speak to?

If you have carefully read this guide and our Suitability Instructions and Definitions (ADMIN 5542), and still have questions, you can either speak with your up-line marketing organization or contact our sales support team. The toll free number for our sales support team is [1-800-445-6758](tel:1-800-445-6758). They will provide answers or as necessary can check with our compliance department on any more technical questions or concerns.

Your attention to good compliance is much appreciated by Fidelity & Guaranty Life. While obviously you are primarily accountable for your own sales practices, we hope you find this kind of information useful in better understanding our expectations and providing the best service possible for your clients. As always, we are grateful for your business, and will continue to strive to provide exceptional value and service for you and your clients.

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