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BROKER-DEALERS SELLING ANNUITIES: PREPARING FOR THE BEST-INTEREST STANDARD

Broker-dealers selling annuity products in New York will soon need to comply with new best-interest requirements imposed by New York's amended Insurance Regulation 187. These requirements, which will take effect for annuities on August 1, 2019, will also impose new documentation, disclosure, and training requirements on broker-dealers that sell annuities. The author discusses these requirements and suggests practical steps for compliance.

By Issa Hanna *

In 2018, the New York State Department of Financial Services (“NYDFS”) issued a final version of its First Amendment to Insurance Regulation 187, retitled “Suitability and Best Interests in Life Insurance and Annuity Transactions” (Amended Regulation 187).¹ Amended Regulation 187 will impose a best-interest standard on recommendations of purchase, replacement, and certain other post-issuance transactions involving life insurance² and annuity products. According to the

¹ 11 N.Y.C.R.R. § 224.

² A significant aspect of the changes to Regulation 187 is the extension of the applicability of the regulation to life insurance transactions; prior to the recent amendment, it only applied to annuity transactions. Although this article does not specifically discuss Amended Regulation 187’s impact on broker-dealers distributing life insurance products in New York, many of the requirements discussed in this article with respect to annuity distribution will also apply to life insurance distribution. The new requirements as they relate to life insurance distribution will take effect on February 1, 2020.

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NYDFS press release announcing the issuance of the final version of Amended Regulation 187, a goal of the amended regulation is to “fill in regulatory gaps” perceived by NYDFS resulting from the elimination of the federal Department of Labor’s Fiduciary Rule.³

I. SCOPE OF AMENDED REGULATION 187

Under Amended Regulation 187, both insurers and producers are subject to new duties and obligations in connection with annuity transactions. These duties and obligations are layered on top of the existing suitability standard, calling into question whether broker-dealers distributing annuity products in New York can continue to rely on their existing practices and standards under the suitability rules and guidance of the Financial Industry

³ NYDFS Press Release, “DFS Issues Final Life Insurance and Annuity Suitability Best-Interests Regulation Protecting Consumers from Conflicts of Interest” (July 18, 2018), available at: <https://www.dfs.ny.gov/about/press/pr1807181.htm>.

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