

NY Best-Interest Reg for BDs Selling Annuities Is Coming | ThinkAdvisor

Allison Bell | March 26, 2019



Broker-dealers selling annuities in New York, take heed: On Aug. 1, the New York State Department of Financial Services' best-interest Regulation 187 kicks in — imposing a best-interest standard on recommendations involving life insurance and annuity products, attorneys at Eversheds Sutherland warn.

In a Thursday [legal alert](#), the attorneys lay out the NYDFS' final version of its First Amendment to Insurance Regulation 187, retitled “Suitability and Best Interests in Life Insurance and Annuity Transactions.”

The amended regulation will impose “a best-interest standard on recommendations of purchase, replacement and certain other post-

issuance transactions involving life insurance and annuity products,” attorneys Clifford Kirsch, Issa Hanna and Susan Krawczyk write.

The new rule will also put new documentation, disclosure and training requirements on broker-dealers that sell annuities, the attorneys state.

The final version of amended Regulation 187, the attorney state, cites that the reg is designed to “fill in regulatory gaps” perceived by NYDFS resulting from the death of the Labor Department’s fiduciary rule.

The NY regulation “applies only to those broker-dealers licensed as insurance producers in the state of New York for the purpose of distributing life and annuity products,” the alert states, and “applies only when broker-dealers make recommendations to residents of the state of New York involving annuity and life insurance products.”

To date, the attorneys state, the NYDFS “has not issued any guidance that would serve to provide additional context and analysis with respect to its scope.”

Also unlike the Securities and Exchange Commission’s proposed Regulation Best Interest, Reg 187 does not apply across the board to all broker-dealers.

Both insurers and producers are subject to new duties and obligations in connection with annuity transactions under Reg 187, the attorneys state.

“These new 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 Regulatory Authority ... to establish their substantial compliance with Regulation 187,” the attorneys warn.

The Eversheds Sutherland attorneys also provide a list of recommendations for broker-dealers as they work toward complying with Amended Regulation 187 by its Aug. 1 effective date. For instance, they suggest that BDs assess how best to leverage existing point-of-sale processes to meet disclosure and documentation requirements, as well as assess whether intake forms need revising.