

Advertising Guidelines

For Accordia Life and Annuity Company Producers

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INTRODUCTION

Global Atlantic places high value on your creativity, your sales skills, and your professionalism. We are all in this together – and we appreciate your efforts in marketing and selling our products, as well as providing high-quality service after the sale to our customers. Customer centricity is a major theme that Global Atlantic wants its employees and its agents to embrace and practice on a daily basis.

The marketing, advertising and sale of life insurance and annuity products have become the subject of heightened regulatory scrutiny in recent years. In the area of advertising, underlying statutes, regulations, bulletins and guidelines continue to evolve. Many of the communications you make in the regular course of selling life insurance and annuity products are likely encompassed in the legal definition of advertising. It is important for all representatives of Global Atlantic to realize that compliance issues can arise from the communications you have and the marketing or advertising material you share with customers. When improper or unapproved advertising is used, it may result in reputation or image erosion for you and Global Atlantic, a negative reflection on our industry, insurance department complaints, marketing restrictions, and intensified regulation.

Global Atlantic's Advertising Guidelines are derived to a large extent from the NAIC Advertisements of Life Insurance and Annuities Model Regulation, as well as its own best practices approach for the review of advertising based on interaction with customers, regulators and agents over many years. The Model Regulation has been adopted as the law in a majority of states, although there is some variation even among those states. Other states have their own unique regulations pertaining to advertising, although most have provisions that are similar to those found in the Model. Insurance advertising is highly regulated with frequent changes, clarifications, and bulletins that are issued by state departments of insurance.

Those regulations together with Global Atlantic's Advertising Guidelines determine what may be communicated in an advertising message, how it is communicated, and what appearance it may take. These guidelines are designed to assist you in the preparation of materials that accurately and appropriately represent Global Atlantic, our affiliate companies and our products. They include **(1)** a broad definition of what constitutes advertising, **(2)** general requirements and prohibitions, **(3)** the possible consequences of using non-reviewed or unapproved advertising, **(4)** words and phrases to avoid with suggested alternatives (included in the Glossary), **(5)** instructions for the submission of advertising for review by Global Atlantic, and an Appendix that summarizes some key state-specific rules and requirements.

WHAT IS ADVERTISING?

For the purpose of these Guidelines, **advertising is defined as any material designed to create public interest in Global Atlantic (or any subsidiary company), its products, its agents or brokers OR any material designed to induce the public to purchase, increase, modify, surrender, borrow on, reinstate or retain a policy.** This may include but is not limited to:

- *Lead Cards • Prospecting Letters*
- *Telemarketing Scripts • Seminar Invitations*
- *Seminar Presentations • Newsletters*
- *Newspaper Ads • Trade Publication Ads*
- *Audio Recordings • Video Recordings*
- *Radio Spots • Television Spots*
- *Radio Shows • Television Shows*
- *Internet Ads • Websites • Social Media Sites*
- *Live Webcasts • Sales Presentations/Software*
- *Yellow Pages Ads • Business Cards/Letterheads*
- *Product Brochures • Product Illustrations*
- *Illustration Software • Needs Analysis Software and Output*
- *Agent Recruiting Materials • Agent Training/Education Materials*

Even if the material you are considering using does not seem to meet the definition of advertising, **all material that can be reasonably expected to lead to the sale or attempted sale of a Global Atlantic product,** needs to be submitted for review and approved prior to use.

Do submit the following types of material:

- *Any material that discusses, describes, depicts or portrays in any manner Global Atlantic, its subsidiary companies, their products or product features.*
- *All lead cards, seminar invitations, prospecting letters, call scripts and other similar “front end” material designed for the ultimate purpose of leading to the solicitation of prospective purchasers of life insurance and annuity products, **regardless of the lack of specific reference to Global Atlantic, its subsidiaries or their products or product features.***
- *Any consumer-directed material that discusses the advantages, benefits, characteristics, or tax aspects of life insurance and/or annuities, **regardless of whether specific products or product features are mentioned, if it can be reasonably expected to be used in conjunction with the sale or attempted sale of our products.***
- *Any material that compares life insurance and annuities to other financial products.*
- *Any material in the nature of sales and marketing concepts which are designed to position/promote or sell life insurance and annuity products.*

Do not submit the following types of material for review and approval, but keep in mind the principles and standards articulated within these Guidelines:

- *Material that discusses, in a general nature, financial topics which are commonly discussed in industry literature (e.g. basic retirement planning concepts, basic estate planning concepts, basic business continuation concepts, basic employee benefit concepts).*
- *Seminar presentations that discuss, in a general nature, topics not directly related to insurance products such as retirement planning, IRA distribution planning, Roth Conversions, Social Security, etc. Please note any associated invitations and appointment setting call scripts must avoid pretext messaging and be submitted, reviewed and approved.*
- *Newsletters that discuss general insurance/financial services topics.*
- *Reprints of industry articles and promotions of material already in the public domain (books, articles and other publications).*
- *Business cards, stationery, profiles and biographies of individual agents (must comply with clear identity/purpose standards and approved/prohibited designations).*
- *Needs analysis software, fact finders and related material that do not depict or portray life insurance or annuity products within the software’s output.*

- *Field created agent training material on life insurance and annuities that does not mention Global Atlantic, or its issuing companies, or depict its products or product features.*
- *Generic sales skills training material.*
- *Field created recruiting material that does not mention Global Atlantic or its issuing companies but rather is designed to recruit agents to an Agency or IMO relationship.*

WHAT IS NOT ADVERTISING?

The distinction between advertising and other material generally can be determined by examining the audience to whom the material will be presented (e.g. existing policy holders vs. prospects) and most importantly the content of the material. The following are examples of material that would not generally be categorized as advertising.

- *Any communication used purely for internal purposes and not intended for public dissemination or designed to create public interest in an insurer, its products, agents, or brokers is not advertising. Regular communications with our agents from the Home Office that are designed to provide information on processes and service matters would be one example of such material. Likewise, regular internal communications from an agency or marketing organization to its producers that are made in the regular course of business, and that are not designed to create public interest in Global Atlantic's products or the producer, nor to create interest in the agency or marketing organization, are not considered advertising.*
- *Any communication designed exclusively for providing customer service to existing policyholders that **does not encourage policy modifications, increases in coverage or additional purchases of products**, is not advertising.*

With regard to any material, if you are not sure whether that material constitutes advertising as described in these guidelines, please contact:

Global Atlantic Financial Group

Advertising Review Department
215 10th Street
Suite 1100
Des Moines, IA 50309

Email: adreview@gafg.com to see ad guidelines, see **Get Business Done then Legal and Compliance** at globalatlanticlife.com

GENERAL RULES, REQUIREMENTS AND PROHIBITIONS

Accuracy and Truthfulness

- *No aspect of the advertisement is untrue, deceptive or misleading based on the information included or omitted.*
- *Products issued by Global Atlantic's subsidiary companies should be described as life insurance policies or annuity contracts, and no alternative references to such products should be made that would tend to obscure the true nature of those products.*
- *If a product is being advertised or referenced, it has been approved in the state(s) in which the advertisement will be used, or there is a clear indication that the product may not be approved in all states.*
- *Any advertisement, when examined as a whole, shall not be constructed in such a way as to lead a person of average intelligence and education to any false conclusions upon which such a person could reasonably rely. Any conclusion likely to be made should be based on the literal meaning of the words, impressions from nonverbal portions of the advertisement (e.g. pictures, charts or diagrams) and from materials and*

descriptions omitted from the advertisement.

- *Advertisements shall not utilize or describe non-guaranteed policy elements in a manner which is misleading. There can be no indication that non-guaranteed elements and/or values are guaranteed. All illustrations of and references to non-guaranteed elements shall contain a statement that they are not guarantees or estimates of amounts to be paid in the future and are subject to change. If a consumer advertisement contains illustrations or statements containing or based upon non-guaranteed policy elements, it shall set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed elements.*
- *If interest rates higher than those guaranteed are referred to or illustrated, they cannot be higher than those being currently credited.*

Identity of Agent, Purpose of Contact

- *For lead cards, prospecting letters and similar “first-point-of-contact” communications, the identity of the producer as a “licensed insurance agent” or “licensed insurance professional” must be clearly disclosed, and the stated purpose for the contact should include the discussion of annuity and/or life insurance products. Telephone scripts used in conjunction with setting appointments must also contain such disclosure.*
- *For seminars and workshops, invitations, telephone scripts and appointment cards also need to include the disclosures described above.*

Identity of Insurer and Product (for any advertisement that references Global Atlantic, subsidiary companies or their products or product features)

- *The issuing company’s full name is clearly and prominently referenced.*
- *No advertisement shall use the group or parent company’s name to mislead or deceive as to the true identity of the insurer or to create the impression that any entity other than the insurer is financially responsible for a policy.*
- *The Home Office location is indicated whenever the company or its products are referenced.*
- *If the advertisement refers to a product or its features/projected values, then the contract type, product name and form number are clearly identified.*
- *No combinations of words shall be used that could mislead prospective insureds into believing that the solicitation is connected with or endorsed by any governmental agency or program.*

Use of Company Logo, Images

- *Any use of the company’s logo or image must be sent to us for review and approval prior to use (examples include using the logo in the masthead of a newsletter, on a PowerPoint presentation or in an agent’s or agency’s office name, DBA, etc.)*
- *No unauthorized use of the company brand will be permitted.*

Information about the Company

- *Any information regarding the company’s financial condition, asset size, asset portfolio, and lineage must be accurate and up to date.*
- *Any information regarding the company’s ratings must be accurate and up to date. Required disclosures as to the meaning of the rating must be included.*

Disclosures

- *All advertising material that references projected values of our products must indicate clearly any elements that may affect such values, including, but not limited to, surrender charges, cap rates, participation rates, etc. [Such disclosures must be in a font size sufficient to be easily readable.]*
- *Any advertising material that references guaranteed elements or features must indicate whether the guarantee is subject to any requirements and conditions, and where disclosure of those requirements and*

conditions can be found.

- Any advertising material that discusses or references the tax aspects of our products must (1) explain, or cite the authority for, such tax treatment, (2) contain a clear statement that the reference to tax treatment does not constitute tax, legal or accounting advice and (3) contain a clear statement that the consumer should consult their own legal or tax counsel to confirm how the tax treatment may apply to them.
- Any advertising material that discusses or references the tax aspects of a program, concept or transaction that may, in some way, include our products must (1) contain a clear statement that the reference to tax treatment does not constitute tax, legal or accounting advice and that neither Global Atlantic nor its agents are permitted to give tax, legal or accounting advice and (2) contain a clear statement that consumers should consult their own legal or tax counsel to confirm how the tax treatment may apply to them.
- If an agency or agent is located in a bank or other financial institution, the following or similar disclosure must be included:
 - Annuities and life insurance products are products of the insurance industry. They are not deposits in, obligations of, or guaranteed by the bank. They are not insured by the FDIC.
 - Any Material that is not intended for use with the public, but could conceivably be misused in such a way, must be clearly labeled **“For producer information and reference only. Not for use with the public.”** and should never be used to create public interest and should never be used with the public.

Prohibited Statements and Words

- Statements that are patently false or misleading.
- Statements that describe or attribute benefits that do not exist.
- Statements that fail to clearly identify a product as a life insurance or annuity product.
- Statements that contain obvious omissions of material information which are likely to result in an incomplete understanding of the subject or a misdirection of the audience.
- Statements that make false, unfair or incomplete comparisons to other financial products.
- Statements that refer to a State Guaranty Association or State Guaranty Fund.
- Statements designed to disparage competitors.
- In reference to life insurance products, words such as “vanish” and “vanishing premiums”
- In reference to life insurance products, the words “paid-up” unless they are true in the contractual sense
- In reference to either life insurance or annuity products, the words “savings account,” “savings plan,” “retirement plan,” “investment,” “investment account,” or “side fund.”
- In reference to life insurance products, the words “risk-free.”

Note: If you have questions regarding the appropriateness of certain language or require assistance in formulating language, please refer to the Glossary in Section F for words to avoid with suggested alternatives.

Use of Professional Designations

Effective as of the date these Guidelines are published, the only designations that are approved for use are those issued by accredited universities, colleges or professional societies that involve a rigorous curriculum. Unless a designation is on the approved list it may not be used in conjunction with the marketing or sale of our products. The use of the following insurance/financial services industry designations in conjunction with advertising material is permitted:

APPROVED DESIGNATIONS			
CAS	Certified Annuity Specialist	CPA	Certified Public Accountant
CASL	Chartered Advisor for Senior Living	CPC	Certified Pension Consultant
CEBS	Certified Employee Benefit Specialist	CPCU	Certified Property Casualty Underwriter
CEP	Certified Estate Planner*	CRPC	Chartered Retirement Planning Counselor
CFA	Chartered Financial Analyst	CRSP	Chartered Retirement Services Professional
CFEd	Certified Financial Educator	FLMI	Fellow, Life Management Institute
CFP	Certified Financial Planner**	LUTCF	Life Underwriting Training Counsel Fellow
ChFC	Chartered Financial Consultant***	MSFS	Masters of Science in Financial Services
CIC	Certified Insurance Counselor	REBC	Registered Employee Benefits Consultant
CLTC	Certified In Long Term Care	RFC	Registered Financial Consultant***
CLU	Chartered Life Underwriter	RHU	Registered Health Underwriter

Advanced educational degrees such as MBA, PhD, JD and LL.M may be used but not in such a way that would tend to obscure the fact that you are engaged in the business of selling insurance products and receiving commissions.

The following designations have been reviewed and may not be used in conjunction with the sale or attempted sale of our life insurance and annuity products:

PROHIBITED DESIGNATIONS			
CAA	Certified Annuity Advisor	CSEP	Certified Senior Estate Planner
CAC	Certified Annuity Consultant	CSFP	Chartered Senior Financial Planner
CDP	Certified Divorce Planner	CTEA	Chartered Trust and Estate Advisor
CEA	Certified Estate Advisor	CWCA	Certified Workers Compensation Advisor
CEPS	Certified Elder Planning Specialist	MSAA	Medicare Supplement Accredited Advisor
ChFEBC	Chartered Federal Employee Benefit Consultant	QRP	Qualified Retirement Planner
RCA	Registered Clergy Advisor	RFA	Registered Financial Associate
CMFC	Chartered Mutual Fund Counselor	RFP	Registered Financial Planner
CRFA	Chartered Retirement Financial Advisor	SRFP	Senior Registered Financial Planner
CSA	Certified Senior Advisor		

If a designation does not appear on either the approved or prohibited list it may be submitted for review to compliance.

*The CEP (Certified Estate Planner) designation is approved only if one of the following identifications accompanies it in every instance of its use: "Licensed Insurance Agent," "Licensed Insurance Producer" or "Licensed Insurance Professional" Agents licensed in the state of Illinois are not authorized to use the CEP designation until further notice.

**The CFP (Certified Financial Planner) designation may be used. However, no insurance producer may use such designation or the terms "financial planner", "financial advisor", or "investment advisor" in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case and the producer is properly registered as such.

***The ChFC and RFC designations may be used. However, no insurance producer may use either designation in such a way as to imply that he or she is generally engaged in a consulting business in which compensation is unrelated to sales.

CONSEQUENCES OF USING NON-REVIEWED, UNAPPROVED ADVERTISING

Failure to comply with state laws concerning the advertising of life insurance and annuities can result in fines, penalties and other regulatory sanctions. Fines can reach \$1,000 or more per violation. They may be assessed against the agent, the company or both. In addition, an agent's insurance license may be subject to restriction or suspension for violation of state advertising regulations. In severe cases, particularly those involving misleading advertisements, regulators can revoke agent and Company licenses to do business in their states.

When regulators are concerned about the content or dissemination of an advertisement, they may perform on-site examinations. The Company must pay the expense of such examination. Regulators can require that we file all future advertising for prior approval, which can result in a disruptive and time consuming complication for future marketing efforts by you and the company.

Failure to submit advertising material for approval prior to use, or the use of unapproved advertising may result in disciplinary action by the Company up to, and including, contract termination. This includes the use of advertising that we have disapproved, or that we instructed you to revise before use, but no revision was made.

Please Note: You must keep copies of all materials that support the statements used in an advertisement, along with a final sample of your advertisement. Retention of these materials will assist both the Company and the agent in case of an audit by a regulator if your advertisement is questioned or in the case of a complaint. Please do not destroy any supporting materials or remove them from your files.

ADVERTISING SUBMISSION PROCEDURE

Submission Procedure

Prior to submitting advertising material for review, the author/creator will be responsible for ensuring that the material is in "sufficient good form." This includes:

- *General readability and/or understandability*
- *Proper grammar, punctuation and diction (submissions with a substantial number of typos or errors will be returned to the author/creator without review)*
- *No obviously erroneous, inaccurate, untruthful or outdated information*
- *Verification of all statistical and rating information*

Please follow the Online Submission Process for all advertising materials (excluding New York):

- Step 1** Review the Advertising Guidelines at globalatlanticlife.com in the Our Process section
- Step 2** Email your material with a description of the audience and use you have in mind
- Step 3** Ensure you have included updated contact information so our team can reach you

The Submission Request will transmit to the Advertising Team. Once the material is reviewed an e-mail notice is sent indicating next steps. If the material needs changes, the Advertising Review Team will provide feedback and then request the material be resubmitted to receive the final approval and approval number.

Global Atlantic Financial Group

Advertising Review Team
Advertising Review Department 215
10th Street
Suite 1100
Des Moines, Iowa 50309

Email: adreview@gafg.com

Approval of any advertising is generally valid for a period of twelve months. At the end of the twelve month period you must resubmit the material for new review and approval unless the current approval was otherwise extended by Global Atlantic in writing.

Maintenance of Advertising Files

State laws generally require that you keep final copies of all approved advertisements along with materials that support the statements in your advertisement for at least three years.

GLOSSARY

Identity of Agent	
Terms/Phrases to Avoid	Suggested Alternatives & Parameters for Use
Advisor	Insurance Agent/Insurance Professional
Expert	# of years as Insurance Agent/Insurance
Professional	Financial Advisor/Insurance Agent/Insurance Professional. Exception may exist if Series 7 or RIA, and only used in such a way that it does not obscure fact that insurance products are sold.
Financial Planner	Insurance Agent/Insurance Professional. Exceptions may exist only if credentialed (e.g., CFP) and only if used in such a way that it does not obscure the fact that insurance products are sold.
Financial Services	Insurance and financial products and services
Income Planner/Income Specialist	Insurance Agent/Insurance Professional specializing in annuities
Insurance Consultant	Insurance Agent/Insurance Professional
Wealth Specialist, Wealth Strategist	Insurance Agent/Insurance Professional
Life Insurance	
Account	Policy
Accumulation Account	Policy account value or policy cash value
Be Your Own Bank – Prohibited	Account value accumulation, cash flow from policy
Buckets	Strategies or segments
Contributions	Premiums
Creditor-proof	May be exempt from creditors in some states
Deposits	Premiums
Earnings	Interest credits
Estate tax-proof	Estate tax-free death proceeds; Death proceeds excluded from taxable estate (Depends on context, must include citation when you make this claim)
Gains	Interest Credits
Guaranteed principal	Not appropriate; suggest “no negative interest credits when index goes down” or similar
Income tax-free accumulation	Tax-deferred cash value accumulation
Income tax-free distributions (or cash flow from policy)	Tax-foveded distributions. Also must disclose limitations-i.e., withdrawals not taxable as long as policy is not surrendered or lapsed. Assumes policy is not classified as a “modified endowment contract.”
Income tax-free death benefit (proceeds)	Could be OK depending on context/citation. “Income tax-exempt” preferred. Also include reference to IRC Section 101(a) for exemption.
Index earnings	Indexed interest credits. The appropriate way to describe this is “The interest credited to the policy is based, in part, on the upward movement of the applicable index, subject to certain limitations such as caps, strategy expense charges or participation rates.”
Insurance benefit	Policy death benefit, Policy death proceeds
Insured Investment	Life insurance product, Life insurance policy
Insured savings plan	Life insurance product, Life insurance policy
Investment	Life insurance product, Life insurance policy
Investment-grade life insurance	Life insurance product, Life insurance policy
Investment performance	Account value accumulation; Cash value accumulation
Investment returns	Account value accumulation; Cash value accumulation
Legal reserve product	Life insurance product

GLOSSARY

Life Insurance	
Terms/Phrases to Avoid	Suggested Alternatives & Parameters for Use
Market gains or market growth	Potential to have credited based, in part, upon movement of (change in) market index performance
No cost, no fees	Policy has COI and other charges
Private pension plan	Life insurance product, Life insurance policy
Rate of return	Projected, non-guaranteed interest rate on net account value
Retirement income plan	Policy cash values can be used to supplement retirement income
Rewards without risk	Index-linked interest and guarantees
Secure, safe, protected, safeguards	Stability (among choices), unchanged
Without losses associated with a down market	Assuming no withdrawals, the Accumulation Value will not decrease, even if the S&P 500 index declines
Vanishing premiums – Prohibited	Pay premiums from policy values based on projected, non-guaranteed values OR Pay premiums for X years based on projected, non-guaranteed values OR Pay premiums for X years assuming that projected, non-guaranteed values can cover policy costs and expenses
Yield	Interest rate
Indexed Life Products	
Account with market-like returns	Indexed UL product, Indexed UL policy
Can't lose value, no risk to principal	Policy account value not reduced due to market downturn in a given policy year as long as premium exceeds policy costs
Deferred indexed savings account	Indexed UL product, Indexed UL policy
Deferred savings element	Tax-deferred accumulation, Projected, nonguaranteed account value or cash value
Guaranteed interest	Guaranteed interest rate; if a true-up approach, must explain
Index -based interest rate	subject to any applicable cap or participation rate; Interest linked, in part, to the movement of a major market index;
Index-linked values	Projected, non-guaranteed account value (or cash value)
Indexed funds	Interest crediting strategies
Market-like returns	Account value accumulation (or interest credits) based, in part, on the movement of a market index
Outperforms other financial products	Policy provides considerable value and versatility
Participation in a market index	Interest calculated in reference to the movement of (change in) a market index
Performance of stocks	Movement of (or change in) a market index
Rate of return	Projected, non-guaranteed interest rate on net account value (Note: "Rate of return" should never be used to describe the credited interest rate. Due to policy costs/expenses, the credited interest rate is not a rate of return on premiums)
S&P 500 Index growth	S&P 500 Index movement (or change)
Promissory/Infationary Terms	
100%	Use of this word depends on context and will be assessed on an individual basis
All	Some, many, a significant number

GLOSSARY

Promissory/Infationary Terms	
Terms/Phrases to Avoid	Suggested Alternatives & Parameters for Use
As high as	Use of this word depends on context and will be assessed on an individual basis
Best	Use applicable rating system, i.e. AM Best (along w/required credentials)
Complete	Use of this word depends on context and will be assessed on an individual basis
Comprehensive	Use of this word depends on context and will be assessed on an individual basis
Crash-proof	Not affected by market downturns
Delivering	Offering, providing, creating the potential for
Eliminate risk	Reduce risk
Full	Use of this word depends on context and will be assessed on an individual basis
Highest	Use of this word depends on context and will be assessed on an individual basis
Largest	Use of this word depends on context and will be assessed on an individual basis
Most	Many (supply source if representing as fact) or a substantial number of
No additional cost	Use of this phrase is prohibited when discussing products and product options. Other use is determined on an individual basis
No cost	Use of this phrase is prohibited when discussing products and product options. Other use is determined on an individual basis
No extra cost	Use of this phrase is prohibited when discussing products and product options. Other usage is determined on an individual basis
No load/no sales charge	Must also reference contract surrender charges
Out-performs	Projects better interest (non-guaranteed), potential for better accumulation
Safest	Use of this word is prohibited when discussing products and product options. Other usage is options. Other usage is determined on an individual basis
Special	Cannot be used as "special offer" or in such a way to infer it is only being offered for a limited amount of time unless it is actually true. Other usage is determined on an individual basis Superior Use of this word depends on context and will be assessed on an individual basis
Tax-free	Tax deferred
Unique	Use of this word depends on context and will be assessed on an individual basis
Unlimited	Use of this word depends on context and will be assessed on an individual basis
Up to	Use of this word depends on context and will be assessed on an individual basis Will, will be, will deliver, will provide May provide may result in, can provide, can result in, gives you the potential for
Without costs or fees	Use of this phrase is prohibited when discussing products and product options. Other usage is determined on an individual basis

APPENDIX

State Specific Rules and Requirements

A majority of the 50 states have adopted the NAIC Advertisements of Life Insurance and Annuities Model Regulation. However, a number of states have implemented additional rules or requirements either in the course of adopting the Model or at some subsequent time. It is also important to understand that advertisement-related issues often evolve from other statutes, notices and bulletins that are published by individual states. In addition, most states have laws that prohibit unfair or deceptive trade practices and many of these statutes include rules that relate to marketing and advertising. The following is a summary of notable state-specific rules, directly or indirectly related to the advertising/marketing of life insurance and annuities.

Alabama (Model Reg. adopted)

Free Gifts

The state of Alabama has established guidelines that apply to insurers and insurance producers regarding limitations on the value of free gifts or benefits that are offered in conjunction with advertisements:

Definitions

1. A free gift, benefit, etc., is defined as a gift, benefit, etc., to invite an inquiry or quote from the insurance buying public. It is not an inducement or invitation to enter into an insurance contract.
2. While the \$15.00 valuation has been established, if necessary, a “reasonableness” test will be used to determine whether the value of the gift actually acts as an inducement to enter into an insurance contract regardless of the semantics used in the advertisement.

Allowable Amount

1. The value of the amount of the gift, benefit, etc. will be no more than \$15.00 payable to an individual or family (only one gift per family). This gift cannot be cash.
2. No rebate can be used as a part of a gift.

Trade Practices

Alabama also has a specific rule regarding “twisting” and “malicious statements on financial condition” as they relate to both oral and written representations:

- **Twisting**-“No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making misleading incomplete comparisons as to the terms, conditions or benefits contained in any policy for the purpose of inducing, or attempting or intending to induce, the policyholder to lapse, forfeit, surrender, retain, exchange or convert any insurance policy.” §27-12-6
- **Malicious Statements on Financial Condition**-“No person shall make, publish, disseminate or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular article, or literature which is false or maliciously critical of, or derogatory to, the financial condition of an insurer or of an organization proposing to become an insurer and which is calculated to injure any person engaged, or proposing to engage, in the business of insurance.” §27- 12-9

Arizona (Model Reg. adopted)

A solicitation for an annuity contract provided other than in a face-to-face meeting shall include a statement that the proposed applicant may contact the insurer for a free annuity buyer’s guide. Ariz. Rev. Stat. §20-1242.02 (E).

In Section 20-443, Arizona also provides specific rules regarding misrepresentations and false advertising of policies. "A person shall not make, issue or circulate, or cause to be made, issued or circulated, any estimate, illustration, circular, sales material, or statement:"

- *Misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised or the dividends or share of the surplus to be received.*
- *Making any false or misleading statement as to the dividends or share of premiums paid on similar policies.*
- *Making any misleading representation or any misrepresentation as to the financial condition of any insurer or as to the legal reserve system upon which any life insurer operates. [Note that most states, as well as the Model Reg., have rules that prohibit the use of the existence of legal reserve system, state guarantee association or fund, etc., in any advertising material]*
- *Using any name or title of any policy or class of policies misrepresenting the true nature of the policy.*
- *Making any misrepresentation to any policyholder for the purpose of inducing or tending to induce the policyholder to lapse, forfeit, surrender, retain or convert any insurance policy.*

Arkansas (Model Reg. not adopted, but similar regulation)

- *The state of Arkansas has not adopted the Model Reg.; however, Arkansas provides for specific rules and requirements in other statutes. Arkansas Insurance Rule and Regulation 17 sets forth the following advertising requirements:*
- *Producers are required to identify the insurer and the policy forms in all advertisements of insurance products and product features.*
- *The producer must identify himself or herself as a licensed insurance producer and provide the license number in the same font and type used for the producer's name and telephone number.*
- *In seminars or other similar customer meetings, including lunch and dinner meetings, the producer must identify every insurance company that he or she is appointed with.*
- *If the seminar is limited to just one insurer, the advertisement must identify that insurer.*
- *Materials used in seminars that reference a specific policy provision, such as guaranteed interest rate, that provision must be identified as well.*
- *The terms "financial planner," "investment advisor," "financial consultant" and/or similar terms cannot be used if the producer is only selling life or annuity products. These designations can only be used if the producer is licensed to use them. If these guidelines are not met, it is considered a violation of the Arkansas Insurance Code.*
- *A producer, agency or company may give inexpensive gifts to prospective or existing customers as long as such gifts are provided on a nondiscriminatory basis and is not conditioned upon the purchase of an insurance policy. Gifts must follow the general guidelines for \$5, \$10 and \$25 amounts.*

Rule 17 further describes the following as "unfair practices" and "deceptive acts":

- *The use of terms such as "savings," "deposits," "investments," etc., in such a way as to mislead a prospective purchaser to believe that the primary purpose of the life insurance solicitation is of an investment nature.*
- *The use of comparisons or analogies or the manipulation of amounts and numbers in such a way as to mislead a prospective purchaser concerning*
 1. *The cost of insurance protection to be provided by the insurance contract; or*
 2. *Any other significant aspect of the contract.*
- *The use of any system or presentation for comparing the cost of life insurance that does not recognize the time value of money.*
- *The making of unfair or misleading comparisons of dissimilar policies or riders. An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services, or business methods.*
- *The reference to an insurance premium as a deposit, an investment, a savings, or the use of other phrases of similar meaning, when referring to an insurance premium.*
- *To indicate that cash or loan values are death benefits or that said values are available in addition to the face amount of insurance payable, upon the death of the insured.*

California (Model Reg. Adopted)

California Insurance Code Section 787 details specific rules regarding advertising, other lead generating devices, disclosure, and deceptive and misleading practices in the context of sales to seniors:

“Any advertisement or other device designed to produce leads based on a response from a potential insured which is directed towards persons age 65 or older shall prominently disclose that an agent may contact the applicant if that is the fact. In addition, an agent who makes contact with a person as a result of acquiring that person’s name from a lead generating device shall disclose that fact in the initial contact with that person.”

Section 787 sets forth a number of specific rules and admonitions – the following are some of the key items:

- *No insurer, agent, broker, solicitor, or other person or other entity shall solicit persons age 65 and older in this state for the purchase of disability insurance, life insurance, or annuities through the use of a true or fictitious name which is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of the entity or person, or to the true purpose of the advertisement.*
- *Advertisements shall not employ words, letters, initials, symbols, or other devices which are so similar to those used by governmental agencies, a nonprofit or charitable institution, senior organization, or other insurer, that could have the capacity or tendency to mislead the public.*
- *No advertisement may use any name, service mark, slogan, symbol, or any device in any manner that implies that the insurer, or the policy or certificate advertised, or that any agency who may call upon the consumer in response to the advertisement, is connected with a governmental agency, such as the Social Security Administration.*
- *No advertisement may imply that the reader may lose a right, or privilege, or benefits under federal, state or local law if he or she fails to respond to the advertisement.*
- *All advertisements used by agents, producers, brokers, solicitors, or other persons for a policy of an insurer shall have written approval of the insurer before they may be used.*
- *In addition to any other prohibition on untrue, deceptive, or misleading advertisements, no advertisement for an event where insurance products will be offered for sale may use the terms “seminar,” “class,” “informational meeting,” or substantially similar terms to characterize the purpose of the gathering or event unless it adds the words “and insurance sales presentation” immediately following those terms in the same type size and font as those terms.*

Business Cards

Since 1997, agents licensed in California have been required to include their license numbers on all print advertisements including business cards. Insurance Code §1725.5 Note that the requirement applies to both resident licensees and non- resident licensees. The type size for the license number and word “insurance” must be either at least as large as any telephone number, address, or fax number listed or in 12-point type (8-point type for business cards) whichever is larger.

Colorado (Model Reg. adopted)

Colorado makes several additions to the Model Reg. including (1) a specific definition for “lead generating devices” and (2) special or introductory offers including bonuses:

“Lead-generating device” means any communication directed to the public that, regardless of form, content or stated purpose is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of life insurance policies and annuity contracts. Colo. Admin. Ins. Reg. 4- 1-2 § 4.G.

“Introductory, Initial or Special Offers and Enrollment Periods”: An advertisement shall not offer a policy that provides for “bonus interest” or similar inducement without clearly specifying the terms and conditions the applicant has to meet to earn such bonus. **No advertisement shall promote any form of**

“bonus interest” (or similar inducement) as providing an off- set to the surrender charges upon the replacement of an existing life insurance or annuity product.

Florida (Model Reg. Adopted)

Florida makes several additions to the Model Reg. including applicability/scope of the regulation, disclosure requirements related to advertising, form and content, the use of statistics, and making disparaging comparisons and statements. In this regard, the following does not represent the extensive list of additional rules and requirements, but rather some of the key provisions:

Applicability - These rules shall apply to any Life Insurance Policy and Annuity Contract “advertisement,” disseminated in this State which the insurer knows or reasonably should know is intended for presentation, distribution or dissemination in this State, when such presentation, distribution or dissemination is made either directly by an insurer or indirectly on behalf of an insurer, by an agent, broker, producer, or solicitor, or any other person who has either actual or apparent authority to act on behalf of the insurer; provided the insurer shall not be responsible for advertisements that are published in violation of written procedures or guidelines of the insurer.

Disclosure - All information required to be disclosed by these rules shall be set out conspicuously, in the same size type as that used in the body of the advertisement, and in close conjunction with the statements to which such information relates, or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

Form and Content - Advertisements shall be truthful and not misleading in fact or implication. Words or phrases, whose meanings are clear only by implication or by the consumer’s familiarity with insurance terminology, shall not be used. No insurer, agent, broker, producer or solicitor or other person shall solicit a resident of this State for the purchase of Life Insurance and Annuity Contracts in connection with or as the result of the use of any advertisement which contains any misleading representations, misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of such person or the true purpose of the advertisement.

No insurer, agent, broker, producer, solicitor or other person shall solicit residents of this State for the purchase of Life Insurance and Annuity Contracts through the use of a true or fictitious name which is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of such person or the true purpose of the advertisement.

Disclosure Requirements - Advertisements containing a rate to be earned, including interest rates, rates of return, or any other designation of earnings performance, are prohibited unless all limitations and conditions which affect the rate of return ultimately realized by the policyholder/certificate holder or annuitant are disclosed prominently with equal emphasis to describe the interest rate or rate of return. The disclosure shall include:

- *Premium expense charges, if any;*
- *Administrative charges, if any;*
- *The full surrender charge, year by year;*
- *Any policy fees;*
- *Free withdrawal provisions;*
- *Market value adjustment, if any;*
- *Participation rates, if any;*
- *Any other provisions which affect the rate of return ultimately realized by the policyholder and how the*

- *return is affected;*
- *Guaranteed minimum interest rate during the accumulation period;*

Any depiction comparing the returns possible under a specific contract to alternative financial vehicles, whether charts, graphs, or other methods, must compare the information in a comparable fashion. As an example, if comparing to an annually taxable investment, the life and annuity comparison shall also reflect the impact of all contract charges and illustrate the after-tax surrender value for all time points illustrated for the annually taxable investment. This does not prohibit the use of generic comparisons of a tax deferred return to a non-tax deferred account if used in an institutional advertisement.

Policy or contract values may be indicated on illustrations (any depiction of nonguaranteed values over a period of years) only if guaranteed values are also shown.

Georgia (Model Reg. Adopted)

Georgia adds a number of specific scope, definitional and disclosure requirements.

Definitions - "Advertisement" includes:

- *Any verbal, printed, written or other material or communication of any type from any source which is designed to create or has the effect of creating public interest in life insurance, annuities, or in an insurer, agent, or counselor.*
- *Materials, statements or communications of any type used for the recruitment, training, and education of an insurer's sales personnel and agents.*
- *Prepared or extemporaneous sales talks, presentations, and materials for use or used by sales personnel, agents or counselors.*

Disclosures - Required disclosures include:

- *Advertisements shall not state or imply that dividends are other than a refund or return of part of the premium paid which is not guaranteed and which is dependent on the investment earnings, mortality experience, and expense experience of the company.*
- *Any comparison between participating and non-participating policies or contracts must be true and accurate.*
- *Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. Such higher rates shall not be greater than those currently being credited by the company unless such higher rates have been publicly declared by the company with an effective date for new issues not more than three (3) months subsequent to the date of declaration. Non-guaranteed rates must be clearly and prominently labeled as such.*

Note: *As to the first sentence in bullet point above, a number of states have similar language in their advertising of trade practice regulations and Global Atlantic adopts a similar standard applicable to all states in its Ad Guidelines and Checklist.*

- *An advertisement shall not state or imply that individual annuity policies or deposit funds are accorded special tax treatment unless the advertisement fully, clearly and accurately describes the tax deferred nature of the contract, including the tax consequences on surrender.*
- *No advertisement shall state or imply in a misleading manner that the policy cash value is the policyholder's "savings" or that the policyholder owns the cash value.*
- *Analogies between cash value and savings accounts and between premium payments and contributions to savings accounts are prohibited unless such analogy completely and clearly explains both the similarities and the difference between the items so compared and further, unless it is made clear that such representation is an analogy only and that, in fact, cash values and premium payments are not the same as a savings account and contributions thereto.*
- *Life insurance policies shall not be compared to savings accounts, stocks, bonds, or any other financial instrument or investment in such a way as to mislead a person as to the true nature of life insurance or life*

insurance surrender values or other policy benefits.

- *Advertisements may not imply or state that all older policies are more costly than newer policies or that all newer policies are more costly than older policies unless such is a provable fact.*
- *No advertisement shall use any combination of words, symbols or physical materials which by their content, shape, color, or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.*
- *An advertisement for any specific policy shall clearly inform the prospective purchaser of the full name of the insurance company which will issue the policy. An advertisement by an agent for the sale of life insurance by any agent shall clearly inform the prospective purchaser of the full name of all insurance companies which said agent is authorized to represent.*

Illinois (Model Reg. adopted)

Illinois adds a specific section on the advertising to persons over age 65 of annuities and variable life insurance contracts. Interestingly, there is no explanation as to why all annuities and only variable life contracts are lumped together for this purpose. The disclosure requirements contained in this section mirror the special requirements imposed by California for sales to seniors. See California requirements earlier in this document.

Illinois enacted additional regulations in 2008 that were outlined in Global Atlantic Compliance Bulletin #0317. These regulations include the following rules:

- *Leads directed toward persons age 65 or older shall prominently disclose that an insurer or insurance producer may contact the applicant if that is the fact. In addition, an insurance or insurance producer who makes contact with a person as a result of acquiring that person's name from a lead generating device shall disclose that fact in the initial contact with the person.*
- *Soliciting people 65 or older through the use of names that are deceptive or misleading is prohibited.*
- *Advertisements shall not employ words, letter, initials, symbols or other devices similar to those used by government agencies, nonprofit organizations or senior organizations.*
- *Advertisements cannot imply the loss of rights, privileges or benefits under state, local or federal law for failing to respond to the advertisement.*
- *Producers cannot use an address that misleads or deceives as to their true location or licensing status.*
- *Advertisement for events where insurance products will be offered cannot use the terms "seminar," "class," "informational meeting" or similar terms unless the words "and insurance sales presentation" immediately following those terms in the same type size and font.*
- *Producers must maintain a file of all advertisements used in the state and keep all ads for four years or until the filing of the next regular report of examination of the insurer, whichever is longer.*

Indiana (Model Reg. adopted)

Indiana has a specific rule with regard to advertising interest rate guarantees that are broadcast, published or otherwise presented to the general public in Indiana:

- *An advertisement that refers to an interest rate guarantee applying to a life insurance product or to an annuity contract must state the period for which the interest rate is guaranteed.*

Indiana further specifies prohibited statements and sales practices in 760 Ind. Admin. Code §1-13-5, including:

- *Including in sales kits and prepared sales presentations proposed answers to a prospect's questions as to whether life insurance is being sold which are designed to avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation.*
- *Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience of the soliciting company when the comparisons are designed to enhance the characteristics of the*

policy being sold by confining the comparisons to companies having favorable experience with that type of policy without a fair disclosure of companies which have had unfavorable experience with such type policies, when it is within the knowledge of the company or agent that other companies have had such unfavorable experience.

Iowa (Model Reg. adopted)

Iowa, within the Advertising section of its Unfair Trade Practices statute, provides:

Exclusions, limitations, exceptions and reductions. Words and phrases used in an advertisement to describe policy exclusions, limitations, exceptions and reductions shall clearly, prominently and accurately indicate the negative or limited nature of the exclusions, limitations, exceptions and reductions.

- *Disclosure requirements for life insurance and annuities. An advertisement that states the projected values of a policy must use the guaranteed interest rates in determining such projected values, and, in addition, may show other projected values based on interest rates which comply with the illustrated scale. Any statements containing or based upon an interest rate higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable statements containing or based upon the guaranteed accumulation interest rates. If the policy does not contain a provision for a guaranteed interest rate, any advertisement showing projected values must clearly state that the rates are not guaranteed. This sub-rule does not apply to an illustration or supplemental illustration already subject to the provisions of the Life Insurance Illustrations Model regulation.*
- *An advertisement or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the costs of two or more life insurance policies. Such advertisement may be used for the purpose of demonstrating the cash flow pattern of a policy if such advertisement is accompanied by a statement disclosing that the advertisement does not recognize that, because of interest, a dollar in the future may not have the same value as a dollar at the time of the presentation.*

Note: *The Iowa Insurance Division has issued several key bulletins in the past year that pertain to advertising Bulletin 09-04 regarding advertising materials and practices associated with replacements, particularly those materials that call into question the financial viability of any insurance carrier.*

Kansas (Model Reg. adopted)

Kansas prohibits certain unfair and deceptive acts or practices including:

- *Making a false, deceptive or misleading statement.*
- *Using comparisons or analogies or manipulating amounts and numbers in a way that will mislead the prospective purchaser concerning the cost of the insurance protection coverage.*
- *Referring to an insurance premium as a deposit, an investment, a savings or the use of other phrases of similar import when referring to an insurance premium. This subsection shall not prohibit discussion of the savings values of a life insurance policy having cash values.*
- *No annuity shall be advertised or solicited using any language in advertisements or solicitation material of any kind that refers to the annuity as being "risk free," or a similar connotation.*

Kentucky (Model Reg. not adopted)

Definition of Advertising - Advertisement includes: prepared sales talks, presentations, and material for use by agents and brokers, and representations made by agents in accordance therewith.

Accuracy and truthfulness - Advertisements shall be truthful and not misleading in fact or by implication. Words and phrases the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used. An advertisement shall not imply that an insurer or a policy has been

endorsed by any individual, group of individuals, society, association or any other organization, unless such is a fact.

Fair disclosure to consumers - Reference to any policy or contract in such a manner as to misrepresent its true nature and more particularly:

- *Statements which tend to lead the prospect to believe that the agent is dealing in other than a life insurance contract.*
- *Statements which tend to lead the prospect to believe that life insurance is incidental to the purchase of the contract.*

Louisiana (Model Reg. adopted)

Louisiana has disclosure requirements in connection with the advertising, solicitation, negotiation or procurement of a universal life insurance policy including:

- *Any statement of cost factors or benefits shall contain: the corresponding guaranteed policy cost factors or benefits clearly identified; a statement explaining the non-guaranteed nature of any current interest rates, changes or other fees applied to the policy, including the insurer's rights to alter any of these factors; and any limitations on the crediting of interest, including identification of those portions of the policy to which a specified interest rate shall be credited.*
- *Any illustration of the policy value shall be accompanied by the corresponding net cash surrender value.*
- *Any statement regarding the crediting of a specific current interest rate shall also contain the frequency and timing by which such rate was determined.*
- *If any statement refers to the policy being interest-indexed, the index shall be described. In addition, a description shall be given of the frequency and timing of determining the interest rate and of any adjustments made to the index in arriving at the interest rate credited under the policy.*
- *Any illustrated benefits based upon non-guaranteed interest, mortality or expense factors shall be accompanied by a statement indicating that these benefits are not guaranteed.*
- *If the guaranteed cost factors or initial policy cost factor assumptions would result in policy values becoming exhausted prior to the policy's maturity date, such fact shall be disclosed, including notice that coverage will terminate under such circumstances.*

Maryland (Model Reg. adopted)

Maryland adds a provision regarding fair disclosure of all relevant facts in the sale of life insurance and annuity contracts. Its stated purpose is to protect citizens of Maryland as purchasers and prospective purchasers of life insurance policies or annuity contracts against the use of sales methods which are misleading because of:

- *The omission of facts fairly describing the subject matter as a life insurance policy or annuity contract and the benefits obtainable there under;*
- *An undue emphasis upon facts which, however true, are not relevant to the sale of life insurance or annuities;*
or
- *An undue emphasis upon features which are of incidental or secondary importance to the life insurance aspects of a policy.*

Massachusetts (Model Reg. not adopted)

Massachusetts requires a "checklist" of requirements for all policies with No-Lapse Guarantees. Language in all advertising materials must disclose:

- *the duration of any no-lapse guarantees,*
- *the actions that would cause the no-lapse guarantee to be damaged,*
- *the financial effect on the policyholder of the termination of the no-lapse guarantee period,*
- *the non-forfeiture benefits, if any, attributable to the no-lapse guarantee, and*

- *the financial consequences to the policyholder of paying only the premium required to satisfy the no-lapse guarantee*

Michigan (Model Reg. Adopted)

Michigan adds disclosure requirements that are the same as, or similar, to those required in other states – for example, Georgia and Iowa:

- *Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. Such higher rates shall not be greater than those currently being credited by the company unless such higher rates have been publicly declared by the company with an effective date for new issues not more than three (3) months subsequent to the date of declaration.*
- *If an advertisement illustrates or states premiums, net interest rates, or accumulative values, the actual relationship between the net and gross premium shall be disclosed in proximity thereto and with equal prominence, describing the first year and renewal charges, including, but not limited to, expenses and annual contract, collection, and mortality charges.*

Michigan also identifies the following as unfair methods of competition; unfair or deceptive acts or practices

- *Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies, certificates, or contract of insurers, health care corporations, or health maintenance organizations for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy, certificate, or contract or to take out a policy, certificate, or contract with another insurer, health care corporation, or health maintenance organization.*
- *Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, or threat, whether explicit or implied, or undue pressure.*
- *Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.*

Michigan also had rules for some time regarding proper identification by life insurance agents in contacts with prospective insureds. From Bulletin LE-72-2:

“The use by life insurance agents on business cards, other printed material, and in verbal presentations of such titles as “financial planners”, “fiscal advisors”, “investment counselors” and other titles which tend to lead prospective insureds to believe they are purchasing something other than insurance, is becoming increasingly prevalent in Michigan and is a matter of concern to the Insurance Bureau.”

The Bulletin goes on to state that:

“The bulletin is being sent as a reminder to agents that when using such titles as “financial planner,” “investment counselor” and other similar titles, the advertising business card, stationery or any other presentation also must contain the designation “insurance agent,” or “life insurance agent,” as prominently as the other titles being used.”

Minnesota (Model Reg. adopted)

The state of Minnesota has a number of specific rules and requirements not found in the NAIC Model Regulation.

Statements by agents - In addition to the broad definition of advertising found within the Model

Regulation and these Guidelines, Minnesota is particularly intent on reinforcing that advertising includes “all statements, written or oral, by an agent.”

Interest Rate/Return/Yield - Under its general advertising rules, Minnesota directs that when “interest rate”, “return” or “yield” are referenced in any marketing materials or sales presentations, any prepayment expenses, surrender charges, or withdrawal penalties must be disclosed as well as the “effective net annual yield” or, as an alternative to these disclosures, the applicant must be given an approved “interest rate disclosure form.”

Note: *Minnesota requires this form in conjunction with the sale of universal life insurance policies.*

Examples of Misrepresentation - In the marketing of life insurance and annuities, Minnesota Bulletin 94-5 provides the following examples that are presumptive misrepresentations:

- *Misrepresenting or disguising the type or nature of an insurance product (for example, misrepresenting life insurance policies as retirement programs, annuities, college savings plans, or other programs/products).*
- *Failing to properly disclose relevant information (for example, failing to adequately disclose the existence and potential impact of surrender penalties).*
- *Misuse and/or unauthorized use of association endorsement when marketing products.*
- *Representing the tax benefits of a product(s) without providing, with equal prominence and in close conjunction thereto, an explanation of the tax rules applicable to the product,*
- *Placing undue emphasis in sales illustrations on “non-guaranteed projected” product benefits without providing an equally prominent disclosure(s) of the “guaranteed benefits.”*
- *No statements are made or combination of words used that could mislead prospective insured into believing the company, its products, or the solicitation is connected with or endorsed by a governmental agency or program.*

Financial Planner Disclosure law

“Financial Planner” means a person who, on advertisements, cards, signs, circulars, letterheads, or in another manner, indicates that the person is a “financial planner,” “financial counselor,” financial adviser,” “investment counselor,” “investment adviser,” “financial consultant,” or other similar designation, title, or combination is considered to be representing that the person is engaged in the business of financial planning.

- *Persons who represent that they are financial planners have a fiduciary duty to persons for whom services are performed for compensation.*
- *Persons who represent themselves to be in the business of financial planner or similar terms as described above must complete and provide to each customer a Financial Planning Disclosure document. It must contain the following:*
 1. *How the adviser will be paid; commissions, fees, or both. “Commission only” advisers should offer as wide a variety of investment choices as “fee only” advisers.*
 2. *The name and address of companies that supply financial services or products offered by the planner.*
 3. *The name of the firms where the securities are held and traded.*
 4. *The professional licenses held by the adviser.*

5. *The types of financial products (mutual funds, stocks, limited partnerships, etc.) that the adviser is authorized to sell.*

Nebraska (Model Reg. adopted)

Nebraska has also issued Bulletin CB-77 pertaining to Unfair Trade Practices, Replacements and Sales Promotion:

“In some instances, questionable newspaper advertisements have been placed by competitor agents, agent mailings, and personal contacts by agents or phone calls from agents stating as fact, rumors and unofficial reports concerning certain life insurance companies have been made. While it is acceptable for companies and their representatives to explain their own financial strength, it has been and is still prohibited for companies and their representatives to repeat market rumors or circulate news articles questioning competitor’s solvency or redistribute articles or information prepared by others.”

New York (Model Reg. adopted)

New York includes the following addition to the Model Reg:

When actors and models are used in presenting testimonials/endorsements, this fact must be disclosed clearly.

New York also issues “Circulars” on a fairly regular basis including special rules relating to “bonus interest rates or credit” annuity products (Circular Letter No. 21 (2000)), and a pronouncement that internet advertising must comply with New York’s primary advertising regulation, Reg. 34-A.

North Carolina (Model Reg. Adopted)

North Carolina is among a growing number of states that places emphasis on clear identification of the agent as an insurance agent and the purpose of the contact with the customer:

An advertisement shall not make use of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance agency. 11 N.C. Admin. Code § 12.0427 (p).

Pennsylvania (Model Reg. adopted)

In addition to adopting the Model Regulation, Pennsylvania has a number of relevant regulations in the areas of disclosure, testimonials and endorsements, and the use of statistics.

South Carolina (Model Reg. not adopted)

South Carolina provides several examples of prohibited trade practices connected to the advertisement of insurance products:

Fraudulently inducing insured to change, alter, or retain insurance - No person may make a false, misleading or incomplete representation or comparison of insurance policies or insurers for the purpose of inducing or intending to induce any person to lapse, forfeit, surrender, terminate, retain, or convert an insurance policy or to take out a policy in another insurer.

Misrepresentations to induce termination of life insurance policies - No insurer, its employee or agent, may make any misleading representations or incomplete or fraudulent comparisons of any life insurance

policies or insurers for the purpose of inducing, or which may tend to induce, any person to lapse, forfeit, surrender, terminate, or return any life insurance policy.

Advertising gifts permitted - Nothing in the prohibited trade practice provisions prevent agents from giving to insureds, prospective insureds, and to others for the purpose of advertising, an article of merchandise having a value of not more than twenty-five dollars and having an advertisement for the insurer or agent printed on it. Nothing within this section precludes a licensed agent from providing refreshments during a sales presentation which do not exceed ten dollars a person in cost.

Texas (Model Reg. adopted)

Texas distinguishes “institutional advertisements,” “invitation to contract advertisements,” and “invitation to inquire advertisements.” These distinctions are derived from rules that have existed for a number of years in the areas of accident and health insurance. There is relatively less practical application of these distinctions to the bulk of life insurance and annuity advertising that Global Atlantic sees in the course of its review process.

Institutional Advertisement - means an advertisement having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of insurance, or the promotion of the insurer as a seller of insurance.

Invitation To Contract - means an advertisement regarding a specific insurance product and which describes one or more of the provisions of the contract for that product.

Invitation To Inquire - means an advertisement having as its objective the creation of a desire to inquire further about insurance and which is limited to a brief description of coverage, and which shall contain a message that encourages further inquiry to the agent or insurer about conditions, exclusions and limitations exclusions.

The state of Texas has established a substantial amount of material additions to the requirements of the Model Regulation. In its General Life and Annuity Guidelines, Texas sets forth certain rules/requirements in the areas of misrepresentation, disclosures and prohibited terms. Additionally, Texas provides for specific comments on equity indexed annuities, variable annuities and accelerated benefits under life insurance policies. Finally, Texas is among a growing list of states that provides specific rules on “lead solicitations.”

General Life & Annuity Guidelines

Misrepresentation

Misrepresentations of these products, especially life insurance, have frequently exhibited one or more of the following problems:

1. *The policies are represented as something they are not.*
2. *Life policies are characterized as savings plans, retirement plans, college funding plans, mortgage pre-payment plans, etc.*
3. *Life and annuity policies/contracts are represented to perform “just like a CD”, or similar language*
4. *The emphasis is on tax deferral, interest rates and cash accumulation rather than on providing for loss of income due to a premature death.*
5. *No attempt is made to determine a need for or an amount of death benefit. Often the amount of premium dictates the face amount.*
6. *The purchaser is given the impression or led to believe that the advertised interest rate is a yield on premiums paid.*
7. *It is not made clear that the advertised rate is not a promise of future performance.*

8. *Costs are not disclosed. Front end charges, surrender charges and penalties, and administrative fees all reduce the amount of cash accumulation.*

Disclosures

1. *An advertisement for an interest-sensitive policy (e.g., annuity, universal life) may not advertise a current or illustrated rate of interest that is higher than the guaranteed rate of interest without also displaying the guaranteed rate of interest paid by the policy with equal prominence. S21.114(4)(G)*
2. *The time period during which current interest rates are guaranteed payable must be disclosed. S21.114(4)(H)*
3. *Advertising for a deferred annuity plan must not present interest rates in a manner that implies that the complete premium will accumulate interest at those rates unless such is fact. It must clearly disclose any loading, policy fees, charges, or other items that represent expenses to the policyholder.*
4. *The form number or numbers of the policy advertised, and of any riders or endorsements and any other forms that directly affect the policy, must be clearly identified in an "invitation to contract" advertisement.*
5. *An "invitation to contract", must include all limitations and exclusions. For life and annuity this includes the waiting period for suicide as well as waiting periods for cash value requests and policy loans. Any other restrictions on, or access to, policy values must be disclosed.*
6. *An "invitation to contract" must disclose all costs and expenses such as policy fees, service fees, and administration fees. Administration fees, "front end" loads and surrender charges, if any, must be disclosed fully, either as a percentage of premium, cash value or a dollar amount, whichever is applicable.*

Prohibited Terms

1. *The words "savings," "investment," "deposit," "investment plan" and similar terms cannot be used to refer to the premium or to the interest to be credited to the contract in a context or under such circumstances or conditions that have the capacity or tendency to confuse or mislead the proposed purchaser as to the nature and limitations of the product or to any benefits received therefrom.*
2. *An advertisement must not use the phrase "low cost" or "low cost plan" without providing a demonstration that a composite of lower production, administrative and claim cost resulting in a low premium rate to the public.*
3. *An advertisement for life, accident and health, or annuities may not use the existence of the Guaranty Association (fund) as an inducement to purchase coverage.*

Equity Indexed Annuities

Texas law defines an equity indexed annuity (EIA) as "fixed, deferred single or flexible premium annuity contract that is generally linked or tied to the performance of the S&P 500 index." Since EIAs are complex contracts, the Texas department of Insurance's main goal is to have advertisements accurately describe the "pros" and "cons" of the contract, e.g., disclosing the indexing formula, participation rates, caps, surrender charges, and the guaranteed elements of the contract. EIA advertisements should not imply that the contract is an investment tied to individual stocks or that it is a variable product.

Lead Solicitations

- *An insurer or agent who obtains a list of potential customers derived from use of a lead solicitation, as defined in §21.102(1) (F) of this subchapter (relating to Scope), is responsible for the content of the lead solicitation used to generate such list.*
- *A lead solicitation shall prominently disclose that an insurer or agent may contact the recipient of the solicitation, if that is a fact. In addition, an insurer or agent who makes contact with a person as a result of acquiring that person's name from a lead solicitation shall disclose that fact in the initial contact with the person.*
- *In addition to any other prohibition on untrue, deceptive or misleading advertisements, no advertisement for an event or group meeting where information will be disseminated regarding insurance products, insurance products will be offered for sale, or individuals will be enrolled, educated or assisted with the selection of insurance products, may use the terms "seminar," "class," "informational meeting," "retirement," "estate planning," "financial planning," "living trust," or substantially equivalent terms to characterize the purpose*

of the public gathering or event unless it adds the words “and insurance sales presentation” immediately following those terms in the same type size and font as those terms.

Utah (Model Reg. adopted)

Like Texas, in the definitions and form & content sections of its insurance advertising statute, Utah distinguishes “institutional advertisements,” “invitation to contract advertisements,” and “invitation to inquire advertisements.” These distinctions are derived from rules that have existed for a number of years in the areas of accident and health insurance. A reading of the Utah statute indicates that there is not a great deal of application to life insurance and annuity advertising.

Institutional Advertisement – means an advertisement having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of insurance, or the promotion of the insurer as a seller of insurance.

Invitation To Contract – means an advertisement regarding a specific insurance product and which describes one or more of the provisions of the contract for that product.

Invitation To Inquire – means an advertisement having as its objective the creation of a desire to inquire further about insurance and which is limited to a brief description of coverage, and which shall contain a message that encourages further inquiry to the agent or insurer about conditions, exclusions and limitations exclusions.

In R590-154-11, Utah also has specific rules regarding inducements, gifts, and merchandise given in connection with the sale of insurance:

- *A licensee may not give or offer to give any prizes, goods, wares, merchandise or items of value as an inducement to enter into any insurance or annuity contract or as an inducement to receive a quote, submit an application, or in connection with any other solicitation for the sale of an insurance or annuity contract. However, anything with an acquisition cost of \$3.00 or less shall not be considered an inducement.*
- *This does not prohibit the giving of promotional gifts or merchandise that is generally available to the public and not given in a manner to constitute an inducement to receive a quote or other solicitation or to purchase an insurance or annuity contract, nor does it prohibit insurers from providing sales incentives to producers.*

Utah has joined the growing list of states that have added specific requirements regarding clear identity of the producer as an insurance agent. In R590-154-5, an insurance producer or agency is prohibited from using any name that is:

- *misleading or deceptive;*
- *likely to be mistaken for another license already in business;*
- *implies association or connection with any other organization where actual bona fide association or connection does not exist*

Producers and agencies are directed to make it clear in advertisements that they are in the business of selling insurance products by including words such as “insurance agent” or “insurance agency” or similar terms which effectively convey that message.

Washington (Model Reg. adopted)

Like other states, Washington has a rule that requires clear identification of the producer as a life insurance agent:

“An agent shall inform the prospective purchaser, prior to commencing any presentation that may

lead to the sale of life insurance that the agent is acting as a life insurance agent. In sales situations in which an agent is not involved, the insurer shall identify its full name.”

Wisconsin (Model Reg. not adopted)

Although it has not adopted the Model Regulation, Wisconsin has extensive rules and requirements, some of which are similar to the Model, but also the following specific items:

Identity of insurer. No advertisement may refer to an affiliate of the insurer without disclosing that the two organizations are separate legal entities.

Testimonials, Endorsements, Appraisals, Analysis or Commendations by Third Parties. No person subject to this section may use a testimonial, endorsement, appraisal or analysis:

- *Which is fictional;*
- *If the insurer (or agent) has information indicating a substantial change of view on the part of the author;*
- *If a reasonable person would conclude that the views expressed do not correctly reflect the current opinion of the author;*
- *For more than two years after the date on which it was originally given or two years after the date of a prior confirmation without obtaining a confirmation that the statement represents the author's current opinion;*
- *Which does not accurately reflect the present practices of the insurer;*
- *To advertise a policy other than a policy for which the author gave the statement, unless the statement clearly has some reasonable application to the second policy;*
- *Which reflects a change or omission which alters or distorts its meaning or intent as originally written.*

Advertisements Showing a Specific Rate of Return on Premiums or Cash Values. All life insurance or annuity solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also show, in close proximity thereto and with equal prominence, the following:

- *A general statement describing the existence of first-year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied.*
- *The guaranteed rate of interest paid on the cash value.*
- *The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, an advertisement, representation or solicitation shall disclose if interest on the first \$1,000 of cash value is limited to the guaranteed rate.*
- *An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case.*
- *An indication of any other significant factors which affect the manner in which cash values are computed.*

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