

# Agent Market Conduct and Compliance Guide

**For Accordia Life and Annuity Company Producers**

July 2020

**AN INTRODUCTORY NOTE TO OUR VALUED PRODUCERS:**

Accordia Life and Annuity Company recognizes and appreciates the many contributions that you make to our success and growth as a company. Our agents, agencies and marketing organizations are a key part of our past accomplishments and future aspirations. Through your efforts in marketing and selling Accordia Life insurance products, we are better able to deliver on our commitment to provide protection, security and peace of mind to our customers. You should be proud of the profession you've chosen. You are in a great position to make a significant positive impact on the financial stability and well-being of individuals, families and businesses.

We want to do everything we can to help you achieve and sustain success in the course of selling products and servicing customers for Accordia Life. A big part of being an insurance professional is doing things the right way – in other words, conducting your business in a fair, honest and ethical manner. Accordia Life is committed to helping our agents do just that and to assist you in understanding legal and regulatory requirements.

In an era of increased regulatory scrutiny of agents and companies, it's critically important that you are aware of key rules and regulations that affect your business. Keep in mind that awareness is only the beginning and ultimately your compliance with all of the requirements of the states in which you do business is a key component in a successful insurance career. To that end, Accordia Life has an ongoing commitment to you to establish clear guidelines for the conduct of your business with us. Please read the information presented in this Guide and keep this document in a convenient location for your reference.

Thank you for all you do for Accordia Life and Annuity Company.



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## OVERVIEW AND PURPOSE

The Accordia Life and Annuity Company Agent Market Conduct and Compliance Guide was created to assist producers in understanding important Accordia Life guidelines and procedures related to market conduct and compliance issues, and to help our agents develop a best practices approach to their business activities. In order to fairly and effectively conduct business with customers, our producers must have a thorough knowledge and understanding of Accordia Life's positions and guidelines, as well as the laws and regulations of the states in which they solicit business.

**NOTE:** Throughout this Guide, you will see that we have used the terms "agent", "producer", and "field representative" somewhat interchangeably for the sake of convenience and readability. We have referred to Accordia Life and Annuity Company alternatively as "Accordia Life", "we", "us", or "the Company" at various times as well.

Every insurance company is presented with the same fundamental challenges of successfully growing its business, achieving customer satisfaction and loyalty, developing and maintaining effective distribution systems for its products and complying with the regulatory regimes of all states in which it operates. Accordia Life has made a commitment to its customers to create life insurance products that provide value and versatility over a long period of time. We know that you recognize the importance of making product recommendations based on customers' needs. We also know that you share our objective of maintaining solid long-term relationships with those customers by providing outstanding service after the sale. To further these goals, Accordia Life wants to equip its producers with a basic foundation for good market conduct by providing as much information and guidance as we can in the areas of insurance regulation, Company positions, requirements and training opportunities on compliance issues.

Yours is a highly worthy profession. The business of selling and servicing life insurance and annuity products is both very challenging and very rewarding. Long-term success in the business is achievable only through dedication to your clients, respect for your industry and a fundamental understanding of what constitutes acceptable market conduct in the eyes of regulators as well as the companies you represent.

Accordia Life wants you to recognize our mutual success is only sustainable if we focus on doing the right things for the customer. That emphasis on treating prospective and existing customers with due care goes a long way in solidifying Accordia Life's reputation as well as your own. The guidelines and positions described in this Guide reflect the goals and values of Accordia Life. Also understand that these guidelines are intended to help you become familiar with Accordia Life's compliance rules and standards that you have committed to follow under the terms of your Independent Producer Contract with Accordia Life and Annuity Company.

All producers should understand that Accordia Life is committed to conducting business in a manner that is consistent with our principles of ethical market conduct.

A reputation for fair dealing and integrity is the key to success for both insurers and insurance producers. We achieve that goal by striving to comply with both the letter and the spirit of the laws and regulations governing our industry and our business.

We are honest, fair, and transparent in all aspects of our business and we deeply value our reputation. We take a collaborative approach and are committed to building meaningful relationships and quality interactions for our clients and business partners.

We have developed and maintain a system of supervision and oversight reasonably designed to ensure that we uphold our commitment and deliver on our promises to you and our shared customers.

When we are all truly focused on the needs, the goals, and the aspirations of our customers, we will benefit from the enduring relationships that perspective creates. Please take the time to review this Guide and keep it for your own reference. This Guide will also be posted and maintained on Accordia's agent portal.

We are here to help you be the best insurance professional you can be. Please contact us if you have any questions about the topics presented in this Accordia Life Agent Market Conduct and Compliance Guide.

## ADVERTISING

Accordia Life appreciates your efforts in marketing and selling our products, as well as providing high-quality service after the sale to our customers. We recognize that marketing, advertising and promotion are all keys to a successful insurance sales practice. We want to help you achieve and sustain that success by informing you of the regulatory standards associated with such material and provide a fair and attentive review of your material so that you can use it confidently and professionally.

The insurance industry is heavily regulated, primarily by the states. The marketing, advertising and sale of life insurance and annuity products are the subject of heightened regulatory scrutiny. 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 regulatory definition of advertising.

It is important for all representatives of Accordia Life to realize that compliance issues can arise from the communications you have and the marketing or advertising material you share with both prospective and existing customers. When improper or unapproved advertising is used, it may result in reputation or image erosion for you and Accordia Life, a negative reflection on our industry, insurance department complaints, marketing restrictions and intensified regulation.

Accordia Life'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 that is 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 closely regulated with frequent changes, clarifications and bulletins issued by state departments of insurance. The following are some key points to keep in mind when developing advertising and marketing material:

**(1) Broad Definition of Advertising.** Please understand the definition of "advertising" under the Model Regulation and under Accordia Life's Advertising Guidelines is very broad. For the purpose of these Guidelines, advertising is defined as any material designed to create public interest in Accordia Life, 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 at Accordia Life.

We encourage all of our field representatives to read the **Accordia Life Advertising Guidelines**. These guidelines contain valuable information and instructions on how to submit your advertising material for review. The advertising submission checklists will help you validate your material against Accordia Life's guidelines and help minimize the need for revisions.

In addition to guidance on general requirements and prohibitions, you will find information on:

- (1) words and phrases to avoid with suggested alternatives,
- (2) a list of professional designations that are approved or prohibited by Accordia Life for use in conjunction with the sale or attempted sale of its products and
- (3) an Appendix that summarizes some key state-specific rules and requirements for advertising.

**NOTE:** If you have questions regarding the appropriateness of certain language or require assistance for formulating acceptable language, please contact Marketing at [adreview@gafg.com](mailto:adreview@gafg.com)

## (2) Examples of material that must be submitted to the Advertising Review Team for approval:

- Any material that discusses, describes, depicts or portrays in any manner Accordia Life, its 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 Accordia Life, its products or product features.
- Any consumer-directed material that discusses the advantages, benefits, characteristics, or tax aspects of life insurance or annuities, regardless of whether specific Accordia Life products or product features are mentioned, if it can be reasonably expected to be used in conjunction with the sale or attempted sale of an Accordia Life product.
- 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. (Such concepts should generally be submitted to the Advanced Markets department and pass through the Marketing Concepts Review Process which is separate from the Ad Review process).

**(3) Identity of Agent, Purpose of Contact.** For any "first-point-of-contact" material such as lead cards, prospecting letters and seminar invitations, the identity of the agent as a "licensed insurance agent," "licensed insurance producer," or "licensed insurance professional" must be clearly and conspicuously disclosed and the stated purpose of the contact needs to include a reference to life insurance and/or annuities. Accordia Life expects all of its agents to follow this guideline. An increasing number of states have added specific requirements around such disclosure. For example, North Carolina's Insurance Code includes the following requirement:

*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. §12.0427(p).*

It's also important to note that some states actually require specific language describing agent identity and several require identification by insurance license number (e.g., California and Arkansas).

**(4) Identity of insurer, product.** For those advertisements that do refer to an insurer, its specific products or product features, the Model Regulation requires that the issuing company's full name and home office location is prominently displayed, and the full product name, product type and form number is referenced. Therefore, under Accordia Life Advertising Guidelines, an advertisement that includes any reference to Accordia Life, our products or riders, or any features of such products or riders, must include the information described above and, of course, be submitted for review and approval prior to use.

**(5) Accuracy and Truthfulness.** No advertising material that is used by Accordia Life agents should contain information that is untrue, misleading or deceptive, nor should any advertisement omit material information where such omission would tend to misrepresent the product or concept advertised. If insurance products or their characteristics are described in an advertisement, they should be clearly identified as insurance products and not be described via alternative references such as "fund," "account," "investment" or "plan."

**(6) Guaranteed and Non-Guaranteed Elements.** Under the Model Regulation, advertisements cannot utilize or describe non-guaranteed policy elements in any manner that is misleading and there can be no indication that non-guaranteed elements are guaranteed. Accordia Life's Advertising Guidelines require that any illustration, depiction or portrayal of non-guaranteed elements such as premiums, rates or values shall contain a clear statement that they are not guaranteed. Consistent with the Model regulation, **if a consumer advertisement contains illustrations or statements containing or based upon non-guaranteed policy elements, it shall set forth with equal prominence, and in close proximity thereto, comparable illustrations or statements containing or based upon the guaranteed elements.**

**(7) Disclosures.** Accordia Life's Ad Review Team has developed and maintains a database of standard disclosure language, to assist you in constructing compliant advertising and marketing material, that will provide important information to customers. For any material that includes information about our products or product features, any limitations or conditions should be disclosed as appropriate. Examples of material that require specific disclosures:

- All advertising material that references projected values of Accordia Life products must indicate clearly any elements that may affect such values, including, but not limited to, surrender charges, cap rates, participation rates, market value adjustments, etc. **[Such disclosure must be in a font size sufficient to be easily readable.]** In some instances, depending upon the nature or size of the piece, it may not be practical to include the applicable disclosure language in its entirety. In such instances, at a minimum, it should include a clear message that the product or product feature is "subject to conditions and limitations" and contain a clear and conspicuous message as to where such conditions and limitations can be found.
- Any advertising material that references guaranteed elements or features (e.g. a No-Lapse Guarantee on an indexed life product) 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 Accordia Life 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.

## AGENT EDUCATION AND TRAINING

Accordia Life recognizes the importance of each agent's commitment to adequate education and training as a key ingredient in achieving and sustaining your success as an insurance professional. It is your own personal responsibility to ensure that you comply with all continuing education requirements for each state in which you maintain an insurance license. In recent years, in addition to basic continuing education requirements, some states have enacted additional requirements for agents including mandatory training on certain categories of insurance products or on various market conduct subjects such as suitability. As new requirements evolve, we will continue to notify our producers of their specific duties for the completion of such training.

Accordia Life's Compliance Department provides educational and training opportunities on **Compliance and Market Conduct** issues in a number of ways:

- Major home office training venues may include a Compliance Overview presentation that covers a broad variety of Compliance issues and topics.
- All approved training presentations on Accordia Life's products, marketing concepts and marketing tools include basic compliance-related information.
- From time to time, webcasts are delivered on a wide range of Compliance and Market Conduct subject matter.
- Accordia Life's Compliance staff are available on request to present live training or via webcast for agencies and marketing organizations.
- Accordia Life's Compliance staff can assist in helping agencies and marketing organizations formulate their own compliance training initiatives and material.

Independent of state-mandated training, Accordia Life provides a variety of educational and training opportunities for producers designed to enhance your professionalism, market conduct awareness and general knowledge of the our products, policies and procedures. We provide education and training for our agents in the following ways:

- Live training on site for agencies and marketing organizations.
- Home Office training programs and schools for producers on a number of topics ranging from basic company orientation to product information to needs analysis to advanced markets concepts.
- Periodic webcasts on a wide variety of topics which are both timely and informative.
- These interactive sessions provide information and training on products, marketing material, illustration and presentation systems, industry developments, tax law changes and other items that can enhance your practice.
- Agent Guides and Customer Brochures explaining Accordia Life products and additional information on various marketing concepts.

Accordia Life is dedicated to helping our producers be the best insurance professionals they can be. We want you to have the very best training and educational opportunities possible. That includes training on products, illustrations, marketing concepts, home office processes and sales skills. We would like all of our producers to become aware of the vast array of tools and resources provided by Accordia Life to enhance the customer experience for both you and your client.

We also strongly encourage our field representatives to seek professional education and training opportunities offered through traditional financial services educational institutions such as The American College, the College for Financial Planning® and the Life Underwriting Training Council. The completion of the robust curriculum and attainment of professional designations offered through such institutions can enhance your professionalism and enable you to add real value to your customers.

Your commitment to your own business through consistent professional growth is an important ingredient in achieving sustainable career success. This goes beyond merely completing course work or attending training sessions. We all learn from our experiences, and the interaction that you have with prospects and clients builds a foundation for improving your own effectiveness and the value that you bring to customers. One impressive characteristic of our industry has always been that, over the years, many successful agents have demonstrated a desire to "give back" to the business and share their training, knowledge and experience with other agents. By maintaining a serious commitment to your own training and professional development, you can be in a position to do the same thing.

Just as important as your knowledge of marketing concepts and product training is the development of a fundamental framework for market conduct and compliance issues that enhance your ability to successfully operate your insurance practice with confidence and without having to look in the "regulatory rear view mirror."

## AGENT LICENSING, CONTRACTING, APPOINTMENT AND SOLICITATION

State insurance departments strictly control licensing, appointment and solicitation requirements. Although most states have similar licensing and appointment rules, there can be important variations, and you need to be familiar with the requirements of each state in which you intend to conduct business.



### **Your Independent Producer Contract**

Each agent who is seeking to obtain an Independent Producer Contract from Accordia Life must complete an Appointment Application and Agreement. It is critical that agent-applicants answer all questions truthfully and accurately. Once executed, that application becomes part of the Contract and any misrepresentation of facts within the application later discovered will be grounds for termination of the Contract. Also note that you have agreed to self-report any adverse action within five days of its occurrence to our Legal department.

The authority to act on behalf of Accordia Life under your Contract is subject to a number of terms and conditions. You need to read your Contract carefully and fully understand your obligations under it. One such commitment is your agreement to cooperate with the company and follow its procedures and guidelines – many of which are detailed in this Guide.

### **Licensing and Appointment**

As Section 1 of your Independent Producer Contract states, you are authorized to solicit only those insurance products that have been approved for sale by the applicable state insurance authority and for which you are properly licensed to sell. State laws and requirements change quite frequently, and you have a professional obligation to ensure that you stay current with the applicable state's rules and regulations concerning such subjects as training, continuing education, suitability requirements, replacements and various sales practices. Particularly if you are licensed in multiple states, keeping track of this information can be a considerable challenge. Although Accordia Life spends considerable time and effort keeping its agents current through field bulletins, webcasts and training programs, **it is ultimately your responsibility to understand your obligations under your insurance license(s).**

Accordia Life follows all state regulations and directives on proper and timely appointment of agents. Although solicitation and appointment rules vary by state, and are subject to change, it is ultimately the agent's responsibility to follow the appointment and solicitation guidelines established in each state in which they hold an insurance license. Accordia Life will notify agents, agencies and marketing organizations via field bulletin when any state's solicitation and appointment guidelines change.

Although a number of states authorize solicitation prior to their final approval of appointment, they do so under strictly enforced rules regarding the timing of the agent's contract and/or the submission of the first application to the Company. **Under no circumstances are you authorized to solicit applications on behalf of Accordia Life in any state that does not allow solicitation prior to appointment until you have obtained an official date of appointment from the state.**

Also keep in mind that although some states allow "pre-appointment solicitation," it is incumbent upon you to familiarize yourself with Accordia Life's products, procedures, and guidelines prior to taking any applications.

To summarize your commitment to Accordia Life, every agent who receives an Independent Producer Contract to represent The Company will ensure that:

- A proper license and appointment according to regulatory and Company requirements is obtained and maintained to solicit and submit customer applications for the type of product(s) requested in the customer application.
- All information included with the application for appointment to represent our Company is accurately and completely recorded.
- Applicable state continuing education requirements are completed.
- Licenses are renewed as required, and a copy of the renewed license is immediately sent to the Company.

- Notification is sent to the Company if there is a change in licensing status (i.e., license is terminated, suspended or revoked).
- Any private administrative staff or outside vendors shall either limit their activities to clerical and administrative functions or have applicable required license(s) and Company appointment(s) as well. The agent is responsible for ensuring that such persons also comply with these guidelines.
- Any commission or other compensation is not split or shared with an unlicensed person or entity.
- The Company does not permit rebating. An agent may not give the customer anything of value to induce the sale of a Company product.
- The Company will process terminations of appointments according to regulatory and Company requirements. The reason(s) for termination will also be provided to appropriate regulatory agencies as required by such agencies.

### General Solicitation Guidelines

As the discussion above indicates, it is vital that you pay strict attention to the licensing, appointment and solicitation rules of each state in which you do business. The public has a right to expect that the person who is trying to sell them an insurance product is duly licensed with the state and has a current agent contract with the company the agent purports to represent. **Under no circumstance should an Accordia Life producer act as a “surrogate” for a non-licensed or non-appointed agent.** That means that if an Accordia Life agent signs the application as the agent, he or she must have been the agent who met with the customer or solicited the application. Deliberately circumventing such rules will jeopardize your contract with Accordia Life and likely subject you to fines, penalties and possibly the loss of your insurance license.

Accordia Life is committed to a needs-based selling approach to enhance the effectiveness of its agents in fulfilling the accumulation and protection goals of its customers. We want all of our producers to do as thorough a job as possible in meeting the financial objectives of each customer. Here are some basic reminders on the appropriate solicitation of Accordia Life customers:

- Do not solicit or illustrate a life insurance policy in a state in which the Company has not yet released the product for sale.
- Provide competent and customer-focused sales and service, treating each customer as you would want to be treated, with high standards of honesty and fairness.
- Seek information from the customer that will assist in making appropriate recommendations.
- Use only Company approved advertisements, sales literature, and illustration materials.
- Fairly, clearly and fully explain the life insurance policy being sold.
- Carefully distinguish between the guaranteed and non-guaranteed elements of the product.

## COMPLAINTS

Our employees and field representatives strive to do the right thing for our customers. More specifically, we want to continue to be an industry leader in innovative high-quality products placed through professional, well-trained agents and offer excellent customer service after the sale. In spite of our collective efforts to do just that, policy owners are not always satisfied with their experience as an Accordia Life customer. Complaints are a part of doing business, and in a highly regulated environment such as the insurance industry, they can occur for a number of

different reasons. Two key aspects of this subject that agents should fully understand are (1) what constitutes a complaint? and (2) what should I do when a customer makes a complaint?

### **Definition of a Complaint**

Accordia Life defines a complaint as “a written communication primarily expressing a grievance.” The following is a list of some types of written communications that Accordia Life would consider to be complaints:

- Expression of general dissatisfaction directed to a company officer
- Expression of profanity and/or derogatory statements
- Allegations of violations of insurance law or regulation
- Allegations of criminal activity
- Allegations of fraud
- Allegations of misappropriation
- Allegations of misrepresentation
- Allegations of an inappropriate or unsuitable sale
- Allegations of an inappropriate replacement
- Allegations of unacceptable customer service

It's also important to realize that complaints may come from various sources:

- Accordia Life insurance policy owner
- Beneficiary of an Accordia Life insurance policy.
- Regulatory body on behalf of an Accordia Life customer
- Attorney on behalf of an Accordia Life customer
- Individual authorized to act on behalf of an Accordia Life customer, including:
  - Attorney in Fact
  - Conservator
  - Custodian
  - Guardian
  - Insurance agent or financial representative authorized to act on behalf of the customer

### **Note Regarding Litigation.**

In lieu of making a complaint, (or some time subsequent to the complaint), a policy owner may choose to file a lawsuit against you, Accordia Life and possibly other parties who may have been involved in the sale. Should this happen, and the action involves the sale of an Accordia Life product, please contact Accordia Life's Legal Department immediately so we can respond appropriately. Also, regardless of whether or not the action involves the sale of an Accordia Life product, you should contact your E&O carrier immediately to report a claim.

### **Complaint Procedure and Process**

If an agent, agency or marketing organization receives a complaint directly, it should immediately be forwarded to the Accordia Life Compliance Department.

The Company maintains a log of all written complaints and has a regulatory obligation to maintain accurate records of all written complaints. Further, you need to be aware that it is inappropriate and unacceptable for an agent to initiate any discussion of settlement of a complaint without consulting with and gaining the permission of the Home Office.

The process of responding to complaints received from or on behalf of consumers and complaints or inquiries received from state insurance departments, are handled by the Complaint Resolution Team (CRT). You may forward any complaint received to the CRT via email to: **ComplianceReviewTeam@gafg.com**

### **Acknowledging Receipt of Complaint.**

An acknowledgment letter is sent to the policy/contract owner or their designated representative stating that the complaint has been received, is being reviewed and providing contact information of the team member assigned to the complaint.

**Request for Agent Response.**

Accordia Life notifies agents of complaints received on business written or serviced by the agent if the complaint involves allegations about the agent's statements, acts or representations. In most instances, we will require a written response to the complaint along with all sales materials utilized in the sales process within five business days of the request. Copies of complaints will be sent via facsimile or email whenever possible. A copy will also be sent to any general agent, agency, or marketing organization involved in the sale, and the Regional Vice President for the agent's territory.

This is the primary opportunity for an agent to "tell his or her side of the story" and explain any and all details that may be relevant to the CRT's review and resolution of the complaint.

If the complaint does not involve the conduct of the writing or servicing agent, then the complaint is sent to the agent with instructions to provide a statement at his or her discretion.

**Follow-Up for Agent Response.**

If no statement is received within five business days, within the following five business days a second request is made to the agent and the agent's upline with a copy of the request provided to the applicable Sales Vice President. If a response is not received after the second request, Accordia Life will proceed with its analysis of and response to the complaint without the agent's statement.

**Contacting the Consumer.**

Under most circumstances, the CRT will call the customer or authorized individual acting on behalf of the customer. Exceptions to the rule occur when a regulatory agency has requested that we not make contact directly with the customer or when an attorney represents the customer. Neither the agent nor his/her hierarchy should contact the complainant or policy owner if the policy owner or his/her representative has requested that no contact be made or if a state regulatory agency or an attorney is involved.

Because the facts and circumstances of each complaint are unique, a case-by-case analysis of each complaint is necessary to determine the appropriate action. An agent's response to a complaint is taken into consideration before a complaint is responded to by the Company or resolved by the CRT. The CRT will assess the information provided by both the customer and the agent and then determine an appropriate course of action.

**Customer Complaint Resolution.**

Accordia Life is committed to handling complaints in a thorough, fair, expeditious and courteous manner in accordance with applicable statutes, rules and regulations. We understand that when a complaint is filed, it is an opportunity to make a difference to a customer, to gain insight into how the company can better provide value for all customers, and to preserve our relationships with our customers.

Upon completion of the review, a detailed response will be provided to the complainant with copy to the agent, general agent, agency, and/or marketing organization involved in the sale.

## CONFIDENTIALITY OF CUSTOMER INFORMATION

Protecting the privacy of our customers' information is an important aspect of providing good customer service and earning the trust of all our policyholders. We are required by law to protect our customers' non-public information and implement internal controls to ensure the confidentiality and security of that information. Congress addressed consumer privacy as part of the Financial Services Reform Act of 1999 (Gramm-Leach-Bliley Act, or GLBA). Title 5 of GLBA lays out responsibilities under federal law with respect to the private information that is gathered and used in the selling and servicing of financial services products, including life insurance and annuities. Nearly a decade ago, the National Association of Insurance Commissioners (NAIC) adopted the Standards for Safeguarding Customer Information Model Regulation which has largely been enacted in every state. This regulation describes the privacy requirements and mandatory controls that are applicable to the insurance business.

**"Non-Public Personal Information"** refers generally to information collected which is not available to the general public. Concerning Accordia Life's customers, information of this nature would include, but is not limited to:

- Policy values
- Policy numbers
- Social security number
- Type of policy purchased
- Financial and medical information
- Beneficiary information

Customers have the right to expect that the information we receive from them will be used only in connection with their application for a life insurance or annuity product as well as the subsequent servicing of any policy or contract that we issue. They expect that their information will be protected from unauthorized use, or from others who should not have access to the customer's personal information. Therefore, Accordia Life is committed to protecting the confidentiality and integrity of each of your client's personal, non-public information as they become Accordia Life customers. Correspondingly, you have the following fundamental obligations:

- Agents are obligated to protect non-public personal information of Accordia Life's customers consistent with Global Atlantic Financial Group's (Global Atlantic) Privacy Policy and in accordance with the terms of their Independent Producer Contract with Accordia Life.
- Agents are required to protect customers' information and implement internal controls to ensure the confidentiality and security of customer information is not breached.
- Documents, desktop computers, laptops and additional resources used to store non-public personal information should be kept secure at all times.
- Agents should consult a legal advisor to determine if the agent has additional obligations with respect to his/her business and relationships outside of his/her relationship with Accordia Life.
- Any security breach of Accordia Life's customers' information should be reported to us immediately.

The Global Atlantic Privacy Policy provides an explanation of our responsibilities to protect our customer's privacy. The foundation for the Guide is the NAIC Model Regulation on Privacy of Consumer Financial and Health Information which was adopted to assist states in meeting the requirements outlined within GLBA. As with most Model Regulations, some states have adopted the Model with little variation while others have established their own unique laws and regulations.

As an agent of Accordia Life, you must adhere to Global Atlantic's Privacy Policy and related policies and procedures. In most cases, where your activities are limited to obtaining customer information in conjunction with our application and/forms, and you are functioning as an authorized representative of Accordia Life, you are covered by our Privacy Policy and likely do not need to have your own privacy policy. However, if you use the information you gather either prior to or after the policy is issued, for other marketing purposes, our Privacy Policy likely does not cover you. It is important for all Accordia Life producers to understand that to the extent you act as an independent provider of insurance products and other financial services or advice, you may have to comply with privacy regulations aimed at your own business – in addition to complying with privacy requirements and guidelines of the companies you represent.

## CONFLICTS OF INTEREST

It is vitally important for agents to realize that various agreements or transactions they might want to engage in with customers may be inappropriate or even unlawful. Although it is fundamental that you must act in the best interests of the customer and not your own when selling life insurance and annuity products, some agents fail to recognize how important it is to avoid both apparent and potential conflicts of interest. With respect to transactions involving Accordia Life customers, you should keep in mind the following points:

- You must not be or become the owner of a policy other than one insuring your life, that of a close family member, or a business associate in whom you have a demonstrable insurable interest.
- You must not be or become the designated beneficiary of a policy other than one purchased and/or owned by you or a close family member.
- You must not be or become a collateral assignee of a policy owned by anyone other than a close family member.
- You must not be or become the trustee of a trust that owns a policy other than one insuring you or a close family member.
- You must not be or become the holder of a Power of Attorney (POA) over the property of a customer, particularly if such power is exercisable with respect to Accordia Life policies

There are a number of very practical reasons, beyond the inherent conflict of interest, why producers should not engage in any of the acts described above.

First, especially in reference to serving as a trustee or holding a POA, you are greatly increasing your liability for any damage or detriment incurred by the customer as a result of your acts or failure to act. Your duty of care has been heightened to that of a fiduciary.

Second, most insurance agents' professional liability (errors & omissions) policies specifically exclude from coverage any acts, errors, or omissions related to the agent acting in the role of a fiduciary.

Third, applicable state laws may control the circumstances under which a licensed insurance agent or other financial services professional may act as an "Attorney-in-fact" (holder of the POA) on behalf of an unrelated person and/or may expressly eliminate the ability of any Attorney-in-fact to transfer ownership of a policy to him/herself or designate him/herself as the beneficiary of the policy.

Fourth, if an insurance agent is designated as the owner or beneficiary of a policy, without a demonstrable insurable interest at the time the policy is issued, it is a clear violation of state law.

In addition, some states have passed or considered legislation prohibiting transfers of ownership, for a period of time subsequent to the policy issue date, if the new owner also has no insurable interest in the insured.

It's important to recognize that even transactions involving close or immediate family members must be carefully considered. For example, if an agent sells a policy to a parent and advises the parent to designate the agent as the sole beneficiary of the policy, to the exclusion of his/her siblings, the result could be family disharmony and/or legal action on the part of the siblings. So even where insurable interest is clear, the appropriateness of an owner/beneficiary arrangement may be questionable. Likewise, if an agent becomes the trustee of an irrevocable life insurance trust insuring the life of a parent, changing family dynamics could increase the likelihood of allegations of breach of fiduciary duty or even self-dealing.

Other conflict of interest issues can arise within the context of an agent-client relationship. While strong customer relationships and persistent business are generally encouraged, the following transactions between Accordia Life producers and Accordia Life customers are prohibited:

- Lending money to a customer
- Borrowing money from a customer
- Commingling your funds with those of a customer
- Making any unauthorized transactions including the submission of applications contrary to the wishes of the customer

Engaging in any such activities does not only result in possible termination of your Accordia Life producer contract, but could be a violation of state law which would subject you to any applicable statutory fines or penalties and possibly result in revocation or suspension of your insurance license.

## CUSTOMER SIGNATURES AND CORRESPONDENCE

The clear acknowledgement via signature that the customer understands certain information or undertakes certain obligations when purchasing an Accordia Life product is an important part of the sale. The application, issue and delivery processes include requirements around the execution of certain documents and forms. Accordia Life maintains on its agent websites some helpful tips on what forms are required in conjunction with a given case.

**Agents are not permitted under any circumstance to sign a customer's name even on their behalf or with their authorization (this includes initials).** Signing a customer's name will subject the agent to disciplinary action by the Company, up to and including termination. This includes the applications, disclosures, illustrations, delivery receipts and any other forms associated with the policy. Forgery is a criminal offense and carries severe consequences, not only from Accordia Life, but from regulatory authorities as well.

**Neither agents nor their staff are permitted under any circumstance to call or email the Home Office and falsely represent that they are the policyholder or contract owner.**

### **Keeping Track of Paperwork on New Cases**

The following are some tips on processing paperwork in conjunction with New Business requirements:

For any point-of-sale disclosure forms that require customer signatures, you should:

- Explain the information contained in the form.
- Ask the customer to read the form.
- Verify that the customer signs the form.
- Make sure the customer records the actual date of his/her signature. An HIV informed consent form must be signed before a blood sample is taken.
- Verify that the application and all applicable required disclosure forms are properly completed and signed by the appropriate person, if signatures are required on the form.
- In situations where the owner and insured are two different parties, you need to pay close attention as to whose signature is required.
- In cases involving policy ownership by a business entity, a company officer other than the proposed insured should sign the application and related forms on behalf of the business.
- Examples of disclosure forms include replacement forms, product illustrations, HIV, Information Consent, Buyer's Guides, guaranty association notices and various other point-of-sale and delivery disclosure forms.
- Leave the appropriate copy of each disclosure form with the customer as required.

### **Policy Owner Service Requests**

- Immediately refer all policy owner service requests to the Company.
- Requests for policy loans, partial withdrawals or cancellations (along with any refunds of unearned premiums and any cash surrender values) will be promptly handled after proper written requests signed by the policy owner(s) and any interested parties (i.e., assignees or irrevocable beneficiaries) are received.
- Current Company policy may modify signature requirements for certain requests in the interests of prompt customer service.
- All notices (i.e., confirmation, premium due, lapse or reinstatement) will be sent to the last known address of the policy owner, unless the Company has on file a written request from the policy owner giving different instructions.
- Accordia Life will not accept a change of the customer's address to the address of the agent and we continuously monitor change of address activity. Where change of the customer's address forms are used, they must be signed by the policy owner.
- Life insurance reinstatement applications must be signed by the owner and will be promptly reviewed according to regulatory requirements, Company policy and applicable policy form language.

## **DO NOT CALL REGISTRY**

The Federal Communications Commission (FCC) prohibits calls to consumers listed on the National Do Not Call Registry. The rule exempts clients with an established business relationship or those who have written for information about products or given written permission to be contacted. In addition, many states have rules regarding telephone solicitation. Under the Telephone Consumer Protection Act (TCPA), the FCC also regulates the manner in which telephone sales calls can be made, including the manner in which calls using a pre-recorded voice or an automatic dialing system must be made.



### **National Do Not Call Registry Guidelines for Agents**

The Federal Communications Commission (FCC) adopted a final rule establishing a Do-Not-Call (DNC) Registry, which became effective October 1, 2003. The National DNC Registry is a list where individuals can register their residential phone numbers to limit telephone solicitations. As of September 2016, consumers have registered more than 226 million phone numbers with the National DNC Registry. The National DNC Registry is managed and enforced by the Federal Trade Commission (FTC). Please understand that the National **Registry requirements apply to insurance agents and the calls you may make to customers.** Some states have established their own DO-NOT-CALL regulations that may exempt certain insurance solicitations. **The National Registry DOES NOT provide any exemption for insurance solicitations.**

### **Telephone Calling Guidelines for Agents**

The FCC adopted a final rule amending the TCPA which became effective in 2012 and 2013. Under the TCPA regulations, sales or solicitation calls may not be made using a pre-recorded voice without the consumer's prior written consent.

#### **Impact to Agents:**

If you use the telephone to make solicitations, you cannot call people who have listed their number on the National DNC Registry. **If you do call a number on the National DNC Registry, you could be fined up to \$40,000 per call.**

If you use an automated dialing system or prerecorded calls of any type, you may not call people who have not given you their prior written consent to be contacted by telephone. Violations of these regulations can result in a **fine of up to \$500-\$1500 per call.**

#### **What agents can do:**

- Call individuals (if they are not on DNC Registry) by hand using a live voice on their residential or cell phone lines, but only between the hours of 8:00 a.m. and 9:00 p.m. You must identify yourself, your agency and that the purpose of the call is to discuss annuity and insurance products.
- Call businesses (only personal phone numbers can be registered).
- Call individuals by hand using a live voice on their residential phone lines if you have an "established business relationship" based on the consumer's purchase or a transaction, within 18 months prior to the call.
- Call consumers to respond to a specific inquiry or concerning an issue with the consumer's application.
- Call individuals on the National DNC Registry, or on a cellular phone line, or using a pre-recorded voice or an automated dialer, but only if those individuals have provided prior written permission to you for these calls.

#### **What agents cannot do:**

- Call individuals who are listed on the National DNC Registry.
- Call before 8:00 a.m. or after 9:00 p.m.
- Call individuals who ask not to be called, regardless of any existing relationship.
- Call individuals based on "referrals" without checking the National DNC Registry.

### **How does an agent access the National DNC Registry?**

The National DNC Registry may be accessed at [www.Telemarketing.donotcall.gov](http://www.Telemarketing.donotcall.gov). Telephone numbers are sorted by area code. You will be asked to provide identifying information such as agent or agency name and address. The National DNC Registry will be updated every three months, and you must re-check for additional names added to the National DNC registry every three months. You can access five area codes for free. After that there is an annual fee of \$63 for each area code, with a maximum fee of \$17,406 for the entire U.S. database. Fees must be paid annually by you.

### **State Do Not Call Lists**

States will continue to have their own do not call lists, many of which will be coordinated with the National DNC Registry. States which have elected not to share with the National DNC Registry and do not exempt any insurance solicitation include: Colorado, Florida, Georgia, Indiana, Louisiana, Massachusetts, Missouri, Oklahoma, Pennsylvania, Tennessee, Texas, and Wyoming. If you are in these states, you need to check your state list also.

### **Agents' Do Not Call List**

Even if a customer has not registered on the National DNC Registry or on a State do not call list, he/she can tell you that he/she does not wish to receive marketing calls from you or your agency. If you get such a request, you must add that number to your own agent/agency "Do Not Call list" and you must not call that customer for solicitation purposes.

### **Summary**

The FCC rule prohibits calls to consumers listed on the National DNC Registry. The rule exempts consumers with an established business relationship or those who have written for information about products or given written permission to be called.

You should check all numbers you call for solicitation purposes against:

- (1) *The National Do Not Call Registry;*
- (2) *Your State do not call list, if applicable; and*
- (3) *Your own Agent/Agency Do Not Call list.*

## **FOREIGN NATIONALS**

Accordia Life is not licensed to do business in any foreign country. Accordingly, we have developed these guidelines for use when doing business with foreign nationals.

The existence of these guidelines does not mean that an application submitted on foreign nationals will be accepted. All foreign national applications are subject to individual consideration. Individuals living in certain countries may pose an unacceptable risk just by residing in that particular country. Countries that pose this type of risk may change from time to time, due to a variety of uncontrolled factors including, but not limited to, the social, economic, health, political and/or military climate of the country in question. Also, Accordia Life does not offer coverage in certain countries due to legal restrictions or U.S. sanctions.

The following are guidelines for writing business where the owner and/or insured are not residents of the United States:

- Ages 18-75
- Minimum requirements (must be done in the U.S.).
  - Paramed
  - Blood/urine
  - PHI
- Occupation must be:
  - Technical
  - Professional
  - Executive

**Excludes**-political figures, government officials, military, police, missionaries, journalists, etc.
- No hazardous occupations or avocations
- Minimum income of \$100,000 annually and \$2 million net worth (U.S. dollars)
- Agents may not advertise or solicit business within a foreign jurisdiction
- All solicitation, including application, underwriting requirements, policy delivery and ongoing communication must occur in the U.S.
- The proposed insured and owner must be legally present in the U.S. for 15 days in the proceeding 12 months. The proposed owner and insured must also demonstrate one of the following:
  - An existing substantial business or vocational connection with the U.S., for example, total or partial business ownership or employment in the U.S.;
  - A close familial relationship with a current legal resident of the United States;
  - Ownership of real property within the U.S.
  - A valid student visa
  - U.S. bank or brokerage account for prior six months withing minimum balance of \$100,000
- Must have a pre-existing U.S. bank account and all premiums must be paid in U.S. dollars. All premium payments must comply with OFAC and AML procedures.
- All billing notices and policy correspondence must go to a U.S. address (not the agent's address).
- May be permanent or term (minimum face amount \$500,000).
- Some riders may only be available if clients are from an "A" or "B" country.
- Auto-bind limit of \$25 million; Jumbo limit of \$30 million
- Maximum rate class - table 4.
- Best class rating (based on country of residence):
  - "A" country - Premier
  - "B" country - Preferred
  - "C" country - Standard
  - "D" country - IC
- The application MUST be completed in the United States and in a state where the company is admitted, the agent is duly licensed and appointed and the product applied for is approved.
- Delivery of the policy must be made in the state where the application was taken. In all cases, a delivery receipt will be required and it must accurately reflect the place and date of delivery. Delivery to power of attorney may be acceptable to Global Atlantic.
- The applicant is responsible for obtaining and paying for all requirements needed from the client's foreign country.

- All requirements from the client's foreign country must be translated into English by an accredited service at the applicant's expense. Reimbursement of up to \$250 is available if the policy is issued and paid.
- Proposed insured and applicant must understand English.
- Ownership may be through a trust, partnership, LLP, LLC, corporation or other legal entity domiciled in the U.S. If the owner does not have a SSN or TIN, a W-8BEN form must be completed.
- Foreign National Customer/Producer Certification, inspection report, photo ID and Foreign Residence Questionnaire are required.
- Premium Finance of a Foreign National Case may be allowed at Global Atlantic's discretion and only if the client has a minimum net worth of \$10 million.

## ILLUSTRATIONS

Accordia Life believes that the proper use of compliant illustrations facilitates the agent's explanation of our products to prospective customers. Properly used, illustrations can help promote the customer's understanding of the product they are purchasing. A customer's overall comprehension of policy features, guaranteed, and non-guaranteed elements, access to policy values, and policy limitations can be enhanced through illustrations. The content and use of illustrations is highly regulated by the states and not just by regulations designed specifically for the subject of illustrations. Advertising laws and unfair trade practice statutes also come into play when an insurance product is portrayed or depicted in any product presentation, including illustrations.

It's important to realize that, outside of illustrations and supporting material generated by Accordia Life's LPSS illustration system, any depiction or portrayal of an Accordia Life product that contains non-guaranteed elements over a period of years is subject to the Model Regulation. Additionally, be aware that any material that you might create that refers to non-guaranteed elements of any kind, including premiums, projected values, cash flow out of the policy, etc., constitute an advertisement under the NAIC Advertising Model Regulation and, therefore, needs to be submitted to Accordia Life for review and approval prior to use.

### Life Insurance Illustrations

The foundation for Accordia Life's guidelines on the use of illustrations is the NAIC Life Insurance Illustrations Model Regulation which has been adopted by the individual states, in some cases with variations that are significant. It's important to understand that some states have individual requirements outside the Model Reg that may have been in place even before its adoption or added based on the state's experience with customer complaints.

### The Fundamentals of the Model Regulation are as Follows:

Purpose and goals:

- To protect consumers
- To foster consumer education
- To ensure that illustrations do not mislead purchasers of life insurance products
- To make illustrations more understandable

The definition of an "illustration" is extremely broad:

*Any presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years.*

There are three types of illustrations described:

- Basic Illustrations
- Supplemental Illustrations
- In-force Illustrations

In addition to detailing the general requirements for illustrations in terms of content, the Model Regulation contains some general prohibitions from which all agents should refrain:

- Representing the policy as something other than life insurance
- Using or describing non-guaranteed elements in a misleading manner
- Depicting policy performance based on assumptions more favorable than the company's current dividend scale or interest crediting rate
- Providing an incomplete illustration (all pages of the Basic Illustration must be provided to a customer)
- Representing that premium payments will not be required for all years, unless that is a fact

### **Illustration Submission and Delivery Requirements**

If a Basic Illustration is used at point of sale and the policy is applied for as illustrated:

- A signed copy of that illustration must be submitted at time of policy application.

### **If a Basic Illustration is used at the point of sale and the policy is issued “other than as applied for”:**

- A revised Basic Illustration must be sent with the policy and be labeled “Revised Illustration”.
- The revised Basic Illustration must be signed and dated by applicant no later than the policy delivery date.
- The signed copy must be submitted to home office.

If no illustration of any kind is used at the point of sale, or if the policy is applied for other than illustrated:

- The producer shall execute a certification to that effect on a form provided by the insurer.
- The applicant must also acknowledge that no illustration was provided and that he/she understands that a conforming illustration of the policy as issued will be provided no later than the date of policy delivery.
- The “Certificate in lieu of” form, if applicable, must be submitted at time of application.\*

### **Presentation of Illustration to the Customer**

It is imperative that you understand that any highlighting or writing on illustrations in a way that brings prominence to particular elements or features, especially non-guaranteed elements, is prohibited. The following “mark-ups” are generally allowed:

- Highlighting agent name, address, phone #
- Adding a phone or fax number, or email address
- Writing the application # on the Illustration
- Writing the date the Illustration was shown
- Writing the date of the next appointment

Keep in mind customers may be purchasing a life insurance policy for the first time and may be unfamiliar with life insurance products and terminology. They are depending on you – the life insurance professional, to provide this information in an understandable way. Agents who are new to Accordia Life should carefully read through a Basic Illustration in order to be able to respond to customers’ questions. There are many training opportunities available on Accordia Life’s illustrations.

\*As of the publication date of this Guide, the following states require that a signed Basic Illustration is submitted with the application for any indexed life insurance product and, therefore, do not allow for the certification for to be used:

- Arkansas
- Connecticut
- Michigan
- North Dakota
- Oklahoma
- South Dakota
- Wyoming

Here are a few simple “best practice” reminders for the effective use and presentation of life insurance illustrations:

- Provide the customer with an overview of the Basic Illustration to discuss the mechanics of the policy.
- Use Supplemental Illustrations to provide additional detail or support for a particular concept.
- Make sure that any Supplemental Illustration is accompanied by a Basic Illustration.
- Make sure the customer understands what is guaranteed and what is not.
- Explain the assumptions or conditions that are subject to change in the future, and the effect those changes could have on premiums, death benefits, cash values, and the length of time that the policy remains in-force.
- Avoid aggressive scenarios – e.g., illustrating maximum cash flows based on current assumptions. It is recommended applicants be shown illustrations run with interest rates or dividend scales (if applicable) lower than current experience together with the current interest rate and dividend scale.
- Make sure the customer understands the nature of policy indebtedness (loans and loan interest) and how any loans or withdrawals could affect the benefits, cash values and the length of time that the policy remains in-force. The customer should also be aware that loans, withdrawals or surrenders could have adverse tax consequences in certain circumstances.
- Make sure the customer understands the timing of policy charges and interest credits.
- Be able to explain the 7-pay limit, the GSP/GLP and the basic tax aspects of life insurance.
- Contact Distribution Services for illustration support and assistance.

## INVESTMENT ADVICE

Accordia Life understands there are producers contracted with our company that are licensed to sell securities and/or provide investment advice to customers. If you do not have the appropriate registration, you are prohibited from dispensing investment advice to existing or prospective Accordia Life customers – by Accordia Life and by law.

Whether an agent is providing investment advice that requires registration depends on the facts and circumstances, but if you are not licensed to discuss securities or provide investment advice, then the following activities should be avoided:

- Recommending the liquidation of a security;
- Recommending a specific allocation among asset classes;
- Discussing the characteristics, advantages and disadvantages of a particular security;
- Advising a customer as to whether securities are relatively more or less suitable than a fixed insurance product.

Given that variable insurance products are both securities and insurance products, and are regulated by separate authorities, contradictory regulations are sometimes implemented. Agents without securities licenses frequently face challenges with this reality when they attempt to provide a comprehensive analysis of the customer's financial circumstances and objectives in the course of needs-based selling. In most states agents are required by regulation (e.g., the Suitability in Annuity Transactions Model Regulation) to make reasonable efforts to obtain information concerning the consumer's:

- Age
- Annual income
- Financial situation and needs, including debts and other obligations
- Financial experience
- Insurance needs
- Financial objectives
- Intended use of the annuity
- Financial time horizon
- Existing assets or financial products, including investment, annuity and insurance holdings
- Liquidity needs
- Liquid net worth
- Risk tolerance, including but not limited to, willingness to accept non-guaranteed elements in the annuity
- Financial resources used to fund the annuity
- Tax status

Whenever an agent takes the time to do a good job of fact finding, he/she is inevitably going to observe the inventory of assets a customer has in order to make suitable planning and product recommendations with respect to insurance products. Even where no specific discussion of investment products ensues, if the customer chooses to liquidate securities they own in order to provide a source of funds for the premium on product, state securities commissioners may nevertheless regard such a transaction as involving the dispensing of investment advice.

For example, the state of Arkansas in 2009, issued a joint bulletin from the state's securities and insurance departments notifying all agents and producers that

*“The recommendation to replace securities such as mutual funds, stocks, bonds and various other investment vehicles defined as securities under the Arkansas Securities Act is the offering of investment advice.” “It is unlawful to offer investment advice unless one is registered (licensed with the Arkansas Securities Department as an investment advisor or investment advisor representative.)”*

In contrast, a less presumptive and more detailed pronouncement was issued by the Iowa Insurance Division and Securities Bureau in June, 2011. Insurance Bulletin 11-4 provides specific guidance on permissible and prohibited activities for “Insurance-Only (Licensed) Persons” and “Securities-Only (Licensed) Persons.” It is noteworthy that Iowa regulators recognized that consumers often make a decision to liquidate securities to fund insurance products of their own volition and without any specific advice from an “Insurance-Only Producer” to do so. Perhaps more importantly, the bulletin recognizes that under the NAIC Suitability in Annuity Transactions Model Regulation, insurance producers have a duty to examine and evaluate a

consumer's financial circumstances including, among other things, their existing assets, risk tolerance and the financial resources used for the funding of the annuity.

With the publication of this bulletin, "Insurance (licensed)-Only Persons" in the state of Iowa have a better understanding of what activities they need to avoid, while still providing a suitable recommendation to their clients. Likewise, persons who only hold a securities license will have a better understanding of the limitations of their licenses when commenting upon matters involving insurance.

It is important to remember if you are not duly registered to provide investment advice, you must avoid specific discussion of the securities in the client's portfolio. It is clearly prudent to avoid specific recommendations to any customer to liquidate specific assets that are registered securities to provide the source of funds for the premium on a life insurance policy or annuity contract.

**You are responsible for being aware of, and abiding by, all the laws of the state(s) in which you conduct business – whether they derive from insurance regulation, securities regulation, unfair trade practice statutes or other laws.**

Regardless of the jurisdiction, if you become aware the source of funds for the premium on an insurance product that you sell will come from a security, including variable insurance products, then you should consider taking steps to make it abundantly clear to the client the liquidation of that security is based on the independent evaluation and decision of the customer and/or the customer's licensed securities representative, and not on any recommendation by you to do so.

Here are some key reminders when it comes to the area of investment advice/source of funds:

- Do not provide specific advice about liquidating or replacing a security.
- Consider integrating statements in your marketing materials that clearly reinforce what services you do and do not provide.
- Be careful to avoid using phrases that may lead customers to believe you are licensed to provide services other than what you are licensed to provide.
- Consider obtaining a clear acknowledgement from the customer that any decision they make to liquidate securities to provide some or all of the funds for the purchase of an insurance product is their independent decision, and not the result of any specific recommendation on your part.
- Be clear with the customer that if they are considering the liquidation of a security, or they otherwise require investment advice, they should seek the advice of a properly licensed securities professional.

## MARKETING CONCEPTS

Accordia Life believes its life insurance products provide significant value for its customers and meet a wide variety of financial needs and objectives. Our Advanced Markets department provides ongoing creative and technical support for a variety of marketing concepts that involve the use of Accordia Life products in the areas of personal insurance planning, estate planning, business continuation, executive benefits and charitable planning. Accordia Life also recognizes that quite often new ideas for utilizing life insurance products originate in the field. The many ways in which Accordia Life's agents position, promote and effectively sell our products has contributed greatly to Accordia Life's growth and long-term success.



**Note:** Accordia Life urges its agents to always submit new ideas, marketing concepts and programs to its Advanced Markets department for evaluation. That department will evaluate the concept or program and decide whether it will be rejected outright for use in conjunction with the sale of Accordia Life products due to inherent risks, or whether it should be evaluated further through the Marketing Concepts Review Process for review by a committee comprised of Legal, Compliance and Advanced Markets.

Accordia Life REQUIRES its agents to submit certain concepts or programs, as listed below, to its Advanced Markets department for evaluation. Accordia Life is never involved in these programs other than issuing an insurance policy, however, this review enables Accordia Life and its agents to avoid being involved with programs that may involve aggressive representations about tax advantages or minimize and ignore potential adverse consequences and risks to the customer.

Accordia Life will not allow its products to be sold in the programs listed below, or others that are added as appropriate, until Advanced Markets and the Marketing Concept Review Process have given approval. Approval may be contingent on changes or limitations in the program or its marketing.

Defined benefit plans under IRS Code Section 412(i) or 412(e)(3).

Plans created under IRS Code Section 79.

Sales to captive insurance companies. It is also important to understand that while Accordia Life is conducting a review of a particular marketing concept or strategy to evaluate whether such a concept meets with our Company's guidelines, policies and expectations, in no regard should you consider our feedback and commentary to constitute legal advice. You should always recognize that you are responsible for compliance with applicable laws and regulations, and we recommend that you obtain your own legal counsel to advise you on such matters.

However, there may be instances in which creativity and enthusiasm around particular sales concepts could lead to disappointment and dissatisfaction for customers. Additionally, some sales concepts that are largely based on the promoter's irresponsible assumptions about tax consequences, or are otherwise recklessly conceived or administered, can lead to customer misunderstanding and confusion. It is critical all Accordia Life producers carefully evaluate any sales concept that is presented to them. It's also important if an Accordia Life producer plans to utilize a new marketing concept in conjunction with the sale of Accordia Life products, the concept must be thoroughly reviewed by the Home Office and should not be used until approved.

The following concepts are **prohibited** from use in conjunction with the sale or attempted sale of Accordia Life products. The evaluation of all marketing concepts is subject to change at any time and those described below do not necessarily represent an exhaustive list of concepts that are unacceptable to Accordia Life:

- **Welfare Benefit Trusts.** In 2004, we announced we would not accept life insurance applications from multiple employer welfare benefit trusts – specifically those constructed or designed to meet the requirements of IRC Section 419A(f)(6). Approximately one year later, the Company announced restrictions on the use of so-called single employer welfare benefit trusts under IRC Section 419(e). Then, in October, 2007, the Internal Revenue Service issued guidance on trust arrangements which were marketed to businesses as welfare benefit funds. That guidance was in the form of Revenue Ruling 2007-65, Notice 2007-83 and Notice 2007-84. In the aggregate, these pronouncements resulted in (1) the denial of tax deductions for contributions to such arrangements to the extent those contributions are attributable to the cash value of the policy, (2) the identification of such trust arrangements as “listed transactions” which subject taxpayers to heightened disclosure obligations and potential tax penalties and (3) a general warning to all taxpayers that the types of arrangements that typically purport to provide post-retirement medical and life insurance benefits to owners and key employees may not provide the tax benefits claimed. **Accordia Life will not issue policies to any plans or trusts established or operating under IRC Sections 419 or 419A.**
- **Mortgage Related Purchases of Life Insurance.** Several marketing concepts evolved during the past decade that involved the use of home equity or mortgage refinancing as a source of funding for life insurance policies. Such concepts can present certain risks to customers including a changing interest rate environment and reduction in property values. Additionally, promoters of such concepts failed to recognize potential challenges to the presumed deductibility of interest on amounts borrowed in conjunction with the purchase of a life insurance policy. A variety of approaches had emerged in this area including:
  - Using home equity through the use of mortgages, reverse mortgages, or home equity loans to provide funds to pay premiums;
  - Replacing existing mortgages with variable or interest-only mortgages with the assumption that low interest rates would continue and the potential savings would be used to pay premiums;
  - Replacing existing mortgages with the assumption that future loans or withdrawals from the insurance policy would cover mortgage payments;
  - Refinancing mortgages in different ways with the intention of using the proceeds to pay premiums

**Accordia Life will not accept any applications for life insurance that involve the funding of such policies through a mortgage-related transaction on a principal residence. This rule applies to all life insurance products offered by Accordia Life.**

- **STOLI/IOLI.** In recent years, a number of troubling marketing concepts have emerged that contemplate the acquisition of life insurance in which no demonstrable insurable interest exists and in which a party unrelated to the proposed insured attempts to profit through the death of the insured. Collectively these concepts have become known as STOLI (Stranger Owned Life Insurance) or IOLI (Investor Owned Life Insurance). These arrangements are generally based on speculation in human life – the very essence of what insurable interest laws are designed to protect against. In addition to the insurable interest issue, such arrangements also pose additional risks to the applicants in terms of diminished coverage available for personal needs, rebating issues and, in some cases, the potential for fraud.

Numerous variations have developed over the years to induce potential insureds to engage in such transactions that are eventually packaged as a pooled investment to groups of investors. Sometimes applicants are offered an up-front fee for the use of their insurability and sometimes they are offered no-cost insurance protection for a period of time. In some cases, the inducement is connected to apportioning a segment of the death benefit of the policy to a charity or other designated beneficiary. Indeed, many promoters have approached charities, especially church groups, to assist in marketing such plans to their members to further the acquisition of large amounts of life insurance with the intent of “selling” the future value of such death benefits in the secondary market. Increasingly, significant efforts have been made by certain promoters to disguise what in essence are STOLI/IOLI transactions with the intent of fraudulently inducing companies such as Accordia Life to issue policies that are destined to be used in such arrangements.

It is Accordia Life’s position that STOLI/IOLI arrangements are contrary to public policy foundations associated with the life insurance industry, tend to jeopardize the tax-favored status that life insurance enjoys within the Internal Revenue Code, take advantage of unsuspecting consumers, and frequently involve misrepresentation or fraud in connection with applications presented to Accordia Life.

**Accordingly, all agents need to recognize that Accordia Life prohibits the sale of its products in conjunction with any such arrangements.** Simply put, if there is any evidence of a plan, at the time of application or after issue, that a customer is going to subsequently transfer the policy as part of a STOLI/IOLI transaction or of any intent to engage in a pre-arranged life settlement or similar transaction, Accordia Life will take appropriate action which may include the cancellation or rescission of the policy. If detected at the time of application, we will not issue the policy. All Accordia Life agents have a duty to disclose information that is discovered at any time that indicates such a plan is in place. If an Accordia Life agent attempts to engage in such transactions by withholding or disguising information in the application process, it may lead to commission chargebacks and the termination of producer appointments, contracts and/or selling agreements. Please also keep in mind the following:

- This prohibition includes all of the various forms of “non-recourse premium financing.” This type of premium financing typically includes a loan to the insured for payment of the policy premiums from a third party that has no insurable interest in the insured. However, the facts typically show that the insured never had any liability to repay the loan or intended to keep the

policy beyond the first few years. Instead, the insured will transfer the ownership or beneficial interest in the policy to the third party in satisfaction of the loan.

- Additional information and/or forms may be required in select situations to assist Accordia Life in identifying and preventing applications from being processed and policies being issued in conjunction with STOLI/IOLI plans.

## NEW BUSINESS

**Note:** Agents do not have the authority to waive any of the Company's informational or underwriting requirements, or to modify the terms of the Company's applications, policies, or information disclosures.

**Note:** There are a number of situations in which the use of the Conditional Agreement is prohibited. They are listed on the Accordia Life agent portal.

### Taking Applications

Agents should carefully review the application for completeness. Please keep in mind that the application becomes part of the policy. When taking applications for Accordia Life, the following are some critical points in making sure that your cases are submitted in good order:

- Make every effort to ensure the information provided by the applicant is complete and correctly recorded.
- Explain what constitutes a replacement before asking the applicant if replacement is involved. If replacement is involved, follow the applicable procedures and disclosure requirements before proceeding with the application.
- Ask the applicant to carefully review the application before it is signed.
- Make sure the customer records the actual date and location where the application is signed.
- Have the applicant initial any changes written on the application. Do not use correction fluid to cover previously recorded information.
- Never permit an applicant to sign a blank or incomplete application or form.
- Always record the name and agent code of the agent who takes the application and witnesses the signatures of the customer(s).
- Properly complete the Agent's Report on life insurance applications and disclose any condition that would affect the insurability of an applicant.
- Never alter or amend any documents obtained.
- Promptly submit all applicable documents in full to the Company, including the application and initial premium payment, replacement form, 1035 exchange transmittal, medical records, and any other information obtained during field underwriting. Note: Remember that the submission of some documents and information is time-sensitive and you need to be aware of state-specific rules and requirements in that regard.
- Complete any additional state-specific point-of-sale forms that may be required.

### Conditional Agreement

This agreement, sometimes referred to in the industry as a "Conditional Receipt," is generally used by life insurance applicants who are attempting to bind coverage in conjunction with the submission of an application and the initial premium. Agents should familiarize themselves with the conditions and limitations contained in the Conditional Agreement and also make sure that the customer understands those conditions and limitations. Accordia Life agents are authorized to complete and deliver the Conditional Agreement only when the initial premium has been paid in full by the applicant at the time the application is completed.

If the Conditional Agreement is not completed and given to the applicant, it is to be left attached to the application and sent to the Home Office.

### **Handling Customer Funds**

Funds collected on behalf of the Company are received in trust and shall be submitted to the Company immediately. All premiums, after the initial premium, are to be submitted directly to the Company by the customer. Accordia Life does not allow premiums to be paid from agents' accounts.

### **Do not commingle customer funds with agent funds.**

Agents are expected to maintain adequate records and procedures to assure proper handling of customer funds. Agents may not rebate or advance premiums.

### **Underwriting Life Insurance**

Part of being an insurance professional is to take your field underwriting responsibility very seriously whenever you take an application for an Accordia Life policy. Accordia Life's Underwriting department is committed to working with agents in order to "provide competitive underwriting, strong products, and excellent service." Agents can assist in expediting the underwriting process by committing to the following as a standard business practice:

- Ask all questions as required by the Company.
- Accurately record all responses.
- Report all knowledge and observations concerning the applicant's health during the application process.
- Follow Company underwriting standards, guidelines and procedures as information is obtained and conveyed to the Company for its determinations to issue, rate, exclude or decline coverage for each applicant.
- Advise the client that possible inspections and telephone interviews are routine parts of the underwriting process.
- Review and comply with all Company guidelines and procedures including any legal and regulatory requirements regarding underwriting standards.
- Please refer to the Accordia Life agent website for additional information.

**Here's a tip:** If you have a case that you anticipate, due to size, underwriting issues, suitability aspects or ownership & beneficiary arrangement, may trigger some additional questions by the New Business, Underwriting, it's always a good idea to provide Accordia Life with as much additional information as possible in a cover letter, submitted with the application.

### **Policy Issue**

It is vitally important that you familiarize yourself with the New Business requirements for your life insurance and annuity cases. At Accordia Life, we want to make the process for issuing your new cases as efficient and responsive as possible. As a producer, you are a valuable customer for us, and we want you to have all of the information necessary to complete any requirements and forms for the business that you submit. When cases are not submitted in good order, the number of outstanding issue requirements is greater, the chance of errors in the processing of the case may increase, and unnecessary delays may ensue that can lead to a disappointing customer experience with Accordia Life for both you and the applicant.

The adequacy and timing of some forms and requirements also may be directed by statute or regulation. We realize that, in some instances, the proper and timely completion of required forms seems like a purely administrative or ministerial function, but these requirements do have a purpose and are often the subject of regulatory inquiries and market conduct examinations.

Fortunately, Accordia Life provides tools for you including Veritas for life insurance applications. Please utilize these helpful tools to increase the chances that all regulatory and issue requirements are met the first time around.

### **Delivery Requirements/Delivery Receipts**

Accordia Life focuses on a pro-active approach in gathering all requirements necessary before the end of the policy delivery period. By applying this approach, Accordia Life is able to mitigate non-compliance in states that require a signed delivery receipt be in our files. **Policy delivery is an important part of customer service not only from a compliance perspective but also to solidify the bond of customer to agent. It provides the agent with the opportunity to reinforce the reason(s) for the purchase and hopefully prevent any subsequent external replacement of the policy.**

**Remember:** A signed delivery receipt is your and Accordia Life's best documentation that the policy has been successfully delivered. It adds clarity to the commencement date of the "free look" period, and it completes a key outstanding requirement in the case file.

The Agent can assist in properly executing policy delivery by:

- Knowing and abiding by the Company's delivery period standards and policies
- Executing and returning any amendments, illustrations and delivery receipts along with any additional delivery requirements within the Company's delivery period

Agents will promptly deliver policies to the policy owners, and return to the Company, within the delivery period, either:

- The properly signed policy delivery receipt, any amendments and any other items requested by the Company that require the policy owner's signature at delivery, as well as any premium payment due at delivery; or
- A written statement signed by the proposed policy owner stating that he/she did not accept the policy and desires a refund of any premium paid with the application. The statement may be on the face page of the policy that is returned to the Company.

**Free Look Period Cancellation.** Requests for free-look returns with a refund of any premiums paid will be promptly handled, according to regulatory requirements, Company policy and applicable policy form language. To cancel a policy during the free-look period, the policy owner must do the following (as stated on the cover page of the policy):

- (1) Sign and date a written request to cancel the policy within a specified amount of time - check the state requirement.
- (2) Submit the written request to the home office or the agent; and
- (3) If the agent receives the written request, that agent must immediately forward the request to the home office.

Requests to cancel policies that do not fulfill these conditions (such as a verbal request from the policy owner to the agent, or from the agent to the home office) are generally not valid and may not be honored by Accordia Life. Likewise, agents do not have the authority to request cancellations of policies.

Any agent that receives a verbal request from a policy owner asking for the cancellation of a policy should inform the policy owner that the verbal request is insufficient and explain the above conditions that must be fulfilled for a proper and valid cancellation.

**Record Keeping.** Agents should know applicable state requirements concerning record keeping. Even if a state does not have specific requirements, agents should maintain customer files with at least the following:

- Suitability information provided by the customer and the basis for the agent's recommendation
- A copy of the application, illustration, signed point-of-sale disclosures, replacement form (if applicable), policy delivery receipt and any correspondence or complaints
- The control number and/or form number of the advertising or sales literature that was communicated to the customer

You should retain documentation in permanent client files in an organized, easily retrievable manner. You should also periodically review and update the information with the customer.

## NON-RESIDENT SALES

Accordia Life wants to make sure all of its agents understand the rules and regulations that pertain to non-resident sales of life insurance and annuities. **A “non-resident sale” (sometimes referred to as a “cross-border sale”) occurs whenever a customer buys a life insurance policy or an annuity contract outside his/her state of residence.**

A substantial part of the mission of state insurance departments is to protect their citizens from purchasing products that have not been approved in their respective states as well as making sure only agents and companies properly licensed in their respective states are doing business with residents of their states. More than ever, state insurance departments are examining transactions in which residents of their states are being sold insurance products outside their jurisdiction. The repercussions for agents and insurance companies can be severe – fines, penalties, remediation, suspension of agent license or certificate of authority.

With our very mobile society, it's quite likely you will experience situations in which there is an opportunity to sell a life insurance policy to an individual who is not a resident of the state in which you are located or conducting business. If the solicitation for the sale of an insurance product takes place in a state that is not the state of residence of the applicant/owner, you must comply with the following guidelines and requirements:

- Provide accurate and complete disclosure to Accordia Life of the location of solicitation, application and delivery.
- Complete the Non-Resident Information Sheet.
- Describe the nexus between the applicant/owner and the non-resident state in which the sale occurs.
- Provide evidence that the applicant/owner is in the non-resident state for reasons other than merely to purchase a product at the time of application.
- Describe the reason(s) the applicant/owner is in the non-resident state at the time of solicitation.
- The solicitation, the application, the premium collection and policy delivery must occur in the same state.

**Note:** It is important that you understand that some states prohibit cross border sales to residents of their states in general. Also, even in cases in which the Non-resident Information Sheet is completed and an explanation for the non-resident sale is provided, Accordia Life reserves the right to decline applications based on other information or circumstances known to the Company.

When completing the Non-Resident Information Sheet, keep in mind the following points in establishing a sufficient nexus between an applicant/owner and the non-resident state in which the solicitation takes place:

- A second home in the non-resident state is generally an acceptable reason for the location of the sale.
- A business owned by the customer in the non-resident state is generally an acceptable reason for the location of the sale.
- Employment in the non-resident state is generally an acceptable reason for the location of the sale.
- Regular business dealings in the non-resident state may be an acceptable reason depending on the type and regularity of the contacts.
- Former residence in the non-resident state, with regular visits to that state to family/friends, may be an acceptable reason for the location of the sale.

State insurance departments will not tolerate agents who deliberately bend the rules in the course of selling products to citizens outside their state of residence. Correspondingly, it is quite likely many Accordia Life producers sell products in jurisdictions outside of their own state of residence. In order to do so, an agent must maintain the appropriate non-resident license(s) and only sell products approved in the non-resident states while conducting business in those states. In addition, agents must be familiar and comply with all rules & regulations in each state for which a non-resident license is held.

The following are some practices in which no Accordia Life agent should become involved:

- Do not act as agent in states in which you are not licensed.
- Do not sell products in states where they are not approved.
- Do not invite potential prospects from one state to a seminar in another state due to product unavailability in prospects' state of residence.
- Do not advise a prospect who is a resident of one state to travel to another state due to product availability.
- Do not submit an application indicating application was signed in a state which, in fact, it was not completed and signed.
- Do not act as a "surrogate" for another agent who is not properly licensed in the state in which the solicitation occurs.

It is important that you understand some states prohibit cross border sales to residents of their states in general. From Accordia Life's current interpretation of applicable state regulations and bulletins, it appears the following states do not permit sales of insurance products to their residents outside their state of residence, regardless of the circumstances of the case or the connection to the non-resident state:

- Arkansas
- Massachusetts
- Minnesota
- Mississippi
- Oregon
- Utah
- Washington

The rules surrounding non-resident sales can be challenging and there are a number of situations - especially in cases where the applicant/owner and the proposed insured or annuitant are different persons - in which it may be difficult to tell (1) where the solicitation

took place, (2) which state's rules should apply and (3) which state's forms should be used. If you have questions about how to proceed in such cases, please contact the Accordia Life New Business Department to discuss the case.

## **PATRIOT ACT AND ANTI-MONEY LAUNDERING**

The U.S. Patriot Act establishes certain requirements and controls for the financial services industry in order to prevent financial institutions from being used for money laundering and the financing of criminal and terrorist activities. Since 2003, the application of the Patriot Act to banks and other large financial institutions has been extended to insurance companies. Accordia Life takes this responsibility very seriously and has adopted an Anti-Money Laundering Program in order to fulfill its obligations under the Patriot Act as developed by the U.S. Department of Treasury. In order for you to maintain your Independent Producer Contract with Accordia Life, you are required to assist the Company in combating financial crime and money laundering.

The focus of the U.S. Patriot Act is primarily on preventing money laundering and terrorist financing. Money laundering is defined generally as the practice of engaging in financial transactions to conceal the identity, source, or destination of illegally gained money or the process of taking the proceeds of criminal activity and making them appear legal. Individuals or businesses who are engaged in the illegal practice of money laundering are generally attempting to avoid a transaction reporting requirement under state or federal law or to disguise the fact that the money was acquired by illegal means. Terrorist financing can generally be defined as the collecting or distribution of funds with the knowledge that they are to be used to sponsor, finance or carry out terrorist acts. Frequently, money laundering is a key component of the financing of terrorist organizations. But it is important to keep in mind that money laundering has much broader application in the facilitation or concealment of a wide range of criminal activity. Under Accordia Life's AML Policy, all producers have a fundamental obligation to do the following:

- Protect the Company and your customers against financial crime.
- Stay informed at all times by fulfilling the requirements for anti-money laundering/ financial crime training.
- Be diligent in observing customer interaction for suspicious activity or red flags.
- Report any suspicious activity that you detect or observe that may be related to money laundering or any other financial crime.

As an insurance professional, you will encounter a variety of prospective customers in the course of your career. These customers will have widely varying backgrounds and financial circumstances. It has been said that insurance professionals who maintain close relationships with their customers often know more about those clients than their lawyer, CPA, banker or stockbroker. Such comprehensive knowledge only comes with time and multiple interactions with the customer. When you first meet a prospective customer, always keep in mind that you, as well as Accordia Life, are interested in long-term relationships with reputable individuals and businesses who are involved only in lawful activities.

### **Customer Identification**

All Accordia Life producers are required to meet "Know Your Customer" requirements as part of each application for a life insurance policy. This means that you must validate the identity of each applicant by collecting sufficient personal information to help identify the applicant as well as describing basic financial information and establishing the primary reason for purchasing the product. The financial information and reason for purchase help validate that the purchase is being made for a legitimate purpose and also helps support the suitability of the sale.



You should familiarize yourself with the type of documentary verification of identity that is required in order to process cases involving different types of applicants, including individuals, businesses, associations, charitable organizations, trusts and attorneys-in-fact. For individuals, such documentation must generally be in the form of an official, unexpired government-issued identification document with a photo of the applicant such as a driver's license or a passport. In the event that an applicant is legitimately unable to provide such documentation, the Company, in its discretion, may perform "non-documentary" verification procedures in order to help validate the identification of the customer. These procedures generally include matching the information provided by the customer to a certified public database.

**It is important to realize that Accordia Life reserves the right to decline an application if it cannot obtain sufficient information to establish the identity of any applicant.**

### **High Risk Jurisdictions, Businesses and Individuals**

Applicants who are citizens or residents of non-cooperating countries and territories (NCCT) as established by the Financial Actions Task Force (FATF), or have business or political ties to such countries, require heightened due diligence and more scrutiny by Accordia Life in the application process. Also keep in mind that Accordia Life maintains guidelines that limit the sale of Accordia Life products to applicants who are foreign nationals. Business entities that may be engaged in businesses or industries that have a reputation for involvement in or intrusion by illegal organizations also typically require greater examination when submitting an application for Accordia Life products.

### **AML Red Flags**

- The customer insists on making initial or recurring premium payments in cash when they have been informed that cash is not an acceptable form of payment.
- The customer is reluctant to provide personal identification information.
- The Customer attempts to make initial or recurring payments (i.e., checks, wires, and electronic funds transfer) from either of the following:
  - From a non-U.S. Bank account
  - Irregular payment amounts in excess of the monthly premium amount
  - Use of unacceptable forms of payment (see section below)
- The customer shows little or no concern about the future performance of the product and is greatly concerned with the cancellation and/or surrender terms (i.e., fines or penalties.)
- A sudden request by the customer to take the maximum loan typically within the first 12 months of the contract inception or within a time frame that appears unreasonable.
- The customer requests a change of ownership on their policy/contract to a person or entity not associated with the account and/or an entity of an OFAC Sanctioned or prohibited country.
- The customer attempts to pay premiums in more than one payment from various unacceptable sources (i.e., checks from unrelated parties, checks from various accounts, etc.).
- The customer attempts to pay initial or recurring premiums via a third party person or entity not associated with the policy/contract owner.

### **Forms of Payment**

Like other responsible insurance companies, Accordia Life has created rules around the type of payment that it will accept in conjunction with the initial premium and for subsequent premium payments as well.

The following forms of payment are **acceptable** to Accordia Life:

- Cashier's checks from a U.S. bank from the remitter's account when the remitter on the cashier check is the owner.
- Third party checks that originate from an insurance company, U.S. financial institution, or pension plan, and are endorsed over to "Accordia Life and Annuity Company."
- Personal checks - must be from a U.S. Bank with the name and address of the Applicant/Owner imprinted on the front of the check (except as specified above.).
- Rollover checks and transfer checks (including those connected to a 1035 exchange) received from a U.S. insurance company or U.S. financial institution.
- Wire transfers (except as specified above) and where the originator is the policy owner and the transfer is drawn from a from a U.S. bank account.

The following forms of payment are not acceptable to Accordia Life:

- Cash (Currency) in any amount
- Checks made payable to cash
- Money Orders
- Traveler's checks
- Checks or wire transfers originating from a foreign bank
- Agent or agency check or wire transfer where the agent is the originator (except when the agent is the owner)
- Personal checks or cashier checks not made payable to an Accordia Life Company.
- Checks drawn on the account of someone (an unrelated party) other than the Applicant/Owner
- Starter or temporary checks without the preprinted name of the Applicant/Owner
- Credit card payments

If a customer provides you with a form of payment that is not permitted, it should be returned to the customer immediately and the Anti-Money Laundering Compliance Officer or his/her designee notified.

If an unacceptable form of payment is received by Accordia Life, it will be returned to the appropriate party.

### **Reporting Suspicious Activity**

Accordia Life has an obligation under the Patriot Act and related laws to report suspicious activity – especially that which indicates the possibility of money laundering. Both employees and agents who observe the occurrence of any of the “red flags” described above must report the activity to the Anti-Money Laundering Compliance Officer or his/her designee immediately by using the Request for Compliance Review (RFCR) form available on the Accordia Life agent website. Once a case file has been referred to the Accordia Life Compliance Department, an in-depth review of the transaction will be completed to determine if a Suspicious Activity Report (SAR) should be filed with the U.S. Department of the Treasury's Financial Crime Enforcement Network (FinCEN). The Anti-Money Laundering Officer or his/her designee has primary responsibility for filing SARs to FinCEN. Under no circumstance should you ever disclose, to a customer or any other person, the content of a SAR, the fact that a SAR is being considered, or that a SAR has been filed.

### Agent Training

Federal regulations that became effective in 2006 require that insurance agents receive anti-money laundering training. Accordia Life recommends and provides access to the course designed by LIMRA International, although the Company will accept proof of completion of an alternate course that an agent has completed through another carrier relationship or broker-dealer. The LIMRA course is offered to Accordia Life agents at no cost.

At Accordia Life, we fully support your continuing education efforts as this commitment benefits your clients, the companies with whom you do business and the industry. We also enthusiastically support your pursuit of professional designations to further your professional abilities and knowledge. The number of designations used by individuals and groups engaged in the sale of life insurance and/or annuity products continues to increase. It is very difficult for both companies and consumers to determine the level of education, training or expertise a given designation appears to represent. If companies were to allow any designation to be used without review, the result would likely be a general dilution of those designations which truly represent a commitment to education and professional growth.

To help guide you in your decision-making process when pursuing professional designations, Accordia Life maintains a list of approved and prohibited designations. **It is important to realize that unless a designation is on the approved list, it cannot be used in conjunction with the marketing and sale of Accordia Life products.**

Note: designations that appear on the approved list may only be used in a manner that is consistent with ethical business practices and that you do not obscure the fact you are a licensed insurance professional. In reaching our conclusions on whether to approve or prohibit the use of a particular designation, we generally look at a number of factors including, but not limited to:

- Whether the organization issuing the designation appears to be an educational institution or professional society dedicated to fostering professional growth or appears to operate primarily as a marketing association
- Whether or not the designation is representative of a rigorous curriculum or substantial course of study as opposed to a relatively brief seminar or workshop
- To what degree the designation may have the capacity to mislead a consumer into believing that the agent is engaged in a profession other than that of an insurance salesperson
- To what degree the designation may have the capacity to infer expertise or a depth of education that does not really exist
- To what degree regulatory authorities have expressed concern over certain designations – particularly those in the category of “senior specialist” designations

**Ultimately, identifying yourself and your professional background without misrepresenting the fact you are a licensed insurance agent, who earns commissions on the sale of products, is the number one requirement.** The way in which you present yourself to the public, and therefore to potential Accordia Life customers, is an important industry concern and the subject of increasing regulatory attention. It is generally considered an unfair and deceptive trade practice to misrepresent your expertise or your intention to sell insurance products. For example, using such labels as “income planner,” “asset protection advisor,” or “retirement consultant” can be misleading and obscure the fact the you are in the business of selling life insurance.

We review various professional designations from time to time. For a current list of approved and prohibited designations, please refer to the Accordia Life Advertising Guidelines. Only designations included on the approved list can be used in conjunction with the marketing, sale or attempted sale of Accordia Life products.

**Finally, you should also be aware some states have provided specific prohibitions against the use of certain designations. If you do business in any state that has provided a list of prohibited designations, you must comply irrespective of whether Accordia Life or any other carrier allows the designation to be used.**

Accordia Life believes that its producers are dedicated to providing high quality products and service to their clients. Despite best efforts and best practices, misunderstandings do occur and there are times when a customer may make a complaint against you or a demand upon you in the course of your activity as a financial services and insurance professional. In the worst case, you may be named in a lawsuit for alleged acts, errors or omissions in the conduct of your business.

#### **Proof of Coverage**

As part of your producer contract with Accordia Life, you are required to provide proof of Errors and Omissions coverage. We require proof that (1) The coverage is provided through an insurance carrier and is not a “self-insured” program, (2) the individual agent has coverage under the policy (rather than merely providing aggregate coverage for an entity with which the agent is affiliated), (3) the policy provides coverage for the sale and servicing of life insurance and annuity products within its definition of “professional services,” and (4) the coverage amounts provided are at least \$1 million per claim / \$1 million annual aggregate per agent.

#### **Prevention of Professional Liability Claims**

Here are some measures that you can take that may reduce your exposure to E&O claims:

- Maintain character, integrity and fair dealing as unwavering cornerstones of conduct.
- Take your field underwriting responsibility seriously.
- Create strong client relationships with continuous communication and strong listening skills.
- Document all important communications.
- Make sure the client understands.
- Do not exceed your expertise.
- Stay current and take continuing education seriously.
- Train your staff thoroughly and appropriately.
- When engaging in joint work with other agents, be sure to require the same standards of conduct that you have established for yourself.
- Work cooperatively with the client’s other advisors, do not avoid them.
- Avoid replacement business and maintain strict compliance with all state requirements when replacement is in the best interest of the client.
- Perform your own due diligence on the companies you represent and the products you sell.

The replacement of an existing life insurance policy or annuity contract is a decision that an owner should make only after careful consideration of a number of factors. Customers rely on their agents to provide sufficient information with which to make a good decision, and agents should make a replacement recommendation only where it is in the customer’s best interests.

It is the position of the Company that an agent should only recommend a replacement of an existing life insurance policy or an existing annuity contract if, after an appropriate review, it is determined that the recommended replacement will assist the client in meeting his or her insurance needs and financial objectives. Stated in this way, replacement evaluations are really an aspect of the overall suitability of your product recommendation to a customer.

The Company does not encourage or condone the systematic replacement of existing life insurance policies and/or annuity contracts. This includes the replacement of other companies' policies and contracts, as well as the replacement of the Company's contracts. However, we do recognize, in some instances, a replacement may assist the client in meeting his or her insurance needs and financial objectives.

### **Specific Considerations**

All replacements require the consideration of a number of factors – both product-related as well as circumstances unique to each customer. If we consider the four types of replacements that Accordia Life encounters with life insurance sales, the following (non-exhaustive) list of considerations emerges for the agent and the customer:

#### Life Insurance – Life Insurance Replacements

- Underwriting classification of current policy
- Underwriting classification decision on proposed policy
- Original issue age vs. attained age
- Death benefit provided by current policy
- Death benefit provided by proposed policy
- Surrender charges incurred if current policy is replaced
- Surrender charges of proposed policy (duration and amount)
- Guaranteed and non-guaranteed values
- Use of 1035 exchange process to prevent taxable gain, carry over cost basis
- Tax implications for the client (including discharge of outstanding policy loan)
- Policy Charges including Cost of Insurance
- Available riders and their associated costs/benefits
- Matching ownership/beneficiary arrangements
- Company ratings
- Financial status of client
- Retirement income needs of client
- Policy loan interest rates

#### Annuity – Life Replacements

- Not a tax-free exchange under IRC Section 1035
- Identified need for life insurance / objective to be accomplished
- Has the original need/objective for the annuity disappeared/changed?
- Age of applicant at time of purchase
- Can life insurance be issued on a favorable underwriting basis?
- Can the customer meet ongoing premium payment obligation?

Note that under no circumstances should you ever deliberately disguise a replacement transaction or, in any way, circumvent the Accordia Life's Replacement Guidelines or the laws of any state. For example, if you are aware that a customer is considering a replacement transaction, do not engage in any practice in which a life insurance policy or annuity contract is surrendered, the proceeds are placed in a temporary account (CD, money market, etc.), and then all or part of those proceeds are used to buy another policy or contract, without properly identifying the transaction as a replacement.

### **Regulation of and Requirements for Replacement Transactions**

There has been an increased focus on replacement transactions by regulators in recent years. Many states have adopted the NAIC Model Regulation on Replacement of Life Insurance and Annuities. Most other states have similar requirements. Some states have very strict procedural requirements for producers and insurers—New York's Regulation 60 is a good example.

Important Information on Replacements Agents must follow state requirements as well as company procedures and guidelines regarding replacements. Accordia Life provides a significant amount of information for agents to review located on [globalatlanticlife.com](http://globalatlanticlife.com), in order to comply with these requirements and guidelines, including:

- Accordia Life 's Position and Guidelines on Replacements
- Compliance Training Presentation – “Replacements: Guidelines, Considerations and Responsibilities”
- Compliance Training Presentation on Proper Completion of Forms
- Guidelines for Internal Replacements of Life Insurance

The NAIC This Model Regulation includes a very broad definition for replacements and imposes stringent requirements for agents and companies. See Accordia Life 's Overview of the NAIC Model Regulation on Replacement of Life Insurance and Annuities on the Accordia Life agent site.

### Partial Surrenders and Financed Purchases

It is critical that you understand that the broad definition under the Model (and therefore the requirements for compliance) applies not just to full surrenders of life insurance policies or annuity contracts but also extends to new policies or contracts purchased with funds (e.g. withdrawals or partial surrenders) from existing policies or contracts. One only needs to examine the Model Regulation and Question #2 on the Multiple States (Model Reg.) Replacement Form:

*“2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract?”*

The Model regulation makes it clear that the definition of replacement extends to so-called “financed purchases” – (i.e., transactions in which the purchase of the new policy or contract is funded totally or partially from the values of an existing policy or contract.)

In addition, any transaction in which values are used from an existing policy within four months prior to, or 13 months after, the purchase of a new policy with the same insurer, is presumptively treated as a financed purchase. All insurance companies are therefore specifically required to monitor internal replacement activity via financed purchases.

It is vitally important that you have a clear understanding of the requirements for a replacement transaction in each state for which you are licensed to sell life insurance and annuity products. Your compliance with and completion of all requirements when you make a replacement recommendation is critical in assisting Accordia Life with demonstrating appropriate documentation to regulators in the course of Market Conduct Examinations.

Your own documentation within your client file is also crucial. You should always be in a position to demonstrate (1) you conducted a thorough review of your clients needs/objectives, (2) you made a fair and careful comparison of the existing policy/contract with the proposed policy/contract, and (3) you can readily articulate the primary reason for the replacement recommendation (why it is suitable for the customer and in the customer's best interest).

Accordia Life has considerable confidence in its field representatives to treat Accordia Life customers fairly and with the intention of doing the best job for each customer, based on their individual needs and circumstances.

## SALES PRACTICES

We recognize any profession involving sales, and particularly insurance sales, is highly challenging and generally requires a combination of characteristics in order to achieve success. Some of these traits – (i.e., conviction, persistence, receptiveness and enthusiasm) are quite necessary for producers to navigate the challenges associated with an insurance career.

There are times when some of these same characteristics can pose some risk for the producer from a regulatory or compliance perspective. In some situations, conviction and enthusiasm may be viewed as excessively aggressive sales tactics. In other situations, receptiveness to new

ideas may lead a producer to get involved in a marketing concept or sales practice touted by a promoter who cares about neither the producer nor his clients. It is important to be aware of some of these pitfalls when you are interacting with your prospects and clients.

Some of the sub-topics in this section of the Guide are closely monitored by regulatory authorities.

### **Abusive or Coercive Sales Methods**

Agents must strive toward presenting insurance products in a setting where customers are given meaningful choices in their decision to purchase an annuity or a life insurance product. Agents must not engage in any sales tactics that involve illegal, abusive, or coercive sales methods. It would generally be an unreasonable expectation that most customers of average education, background or experience, would have the ability to unilaterally evaluate an insurance product presented to them and make a decision during the initial meeting with an agent.

Responsiveness to questions about the product and clear communication about both its advantages and limitations is an important part of the insurance professional's job. There is nothing wrong with appropriately motivating a prospective customer to take action to solve his/her insurance needs. There is a long and impressive history in our company and throughout the industry that clearly demonstrates how life insurance and annuities have helped protect and sustain the financial well-being of many individuals and families.

Abusive or coercive sales methods are unnecessary and will not be tolerated by Accordia Life. No agent should suggest, for example, that a prospective customer would be "foolish" not to purchase a particular product or create a false sense of urgency by stating an insurance product is a "limited offer" and "you must act now." Neither should any agent make any statements to the effect that a prospective customer's family will be "disappointed with them" or declining to purchase a product will result in "financial disaster."

### **Competition**

Accordia Life is committed to fair and respectful competition. Producers may not disparage or defame an insurer, its products or another producer in the course of selling or attempting to sell Accordia Life products. Neither may any agent misrepresent or inappropriately comment on an insurer's financial strength. Any comparisons with other insurers' products must be complete, balanced, and comply with the accuracy and truthfulness requirements described in the Accordia Life Advertising Guidelines.

Accordia Life believes our products can stand up favorably against those offered by our competitors. However, when comparing our products with those of our competitors, it is necessary to present fair and balanced information. Providing our current and potential customers with up-to-date, clear and accurate information are key ingredients to a successful sale. Any time an agent purposefully makes false or misleading statements about a competitor in order to sell an Accordia Life product, the agent is engaged in an unethical and illegal sales practice. Accordia Life does not tolerate this type of sales strategy. When false or misleading information about a competitor (company or agent) is used to persuade a customer to induce a purchase, it's not only unethical and illegal - it may create skepticism in the client generally about insurance products and producers. The entire insurance industry suffers as a whole from this activity.

As an individual agent, you can contribute to fair and balanced competition by:

- Refraining from making disparaging comments about other companies and/or agents
- Refraining from making false or misleading statements about other companies and/or agents
- Using up-to-date information when comparing Accordia Life and our competitors' products
- Refraining from suggestion that any particular company is in financial difficulty

### **Ghostwritten Materials**

Accordia Life prohibits the use of misleading marketing materials to improperly legitimize one's credentials or background in the course of marketing and selling Accordia Life's products. One example of a prohibited marketing practice is the use of "ghostwritten" books, articles or other materials. A book or article is considered ghostwritten if an agent represents him/herself to be the author but has not actually substantively contributed to the writing of the material. The use of any media that misrepresents the true authorship is prohibited.

Providing third party information on insurance and financial topics is a worthy "value added" service that you can provide for customers. Keep in mind that the type of information you present should have value for the customer and not serve merely to enhance your own credentials. In those instances in which an agent is indeed the author of a book, article or newsletter, remember that such material constitutes advertising and may be subject to review and approval according to the submission requirements described in the Accordia Life Advertising Guidelines.

It is acceptable to give customers newsletters and other material that you purchase from a third party vendor as long as the real author is clearly identified and there is no attribution or inference of authorship by the agent. You may acquire material that allows you to customize a piece with your own information or enables you to distribute reprints under the caption, "Provided By." That is acceptable as long as the true author's name is identified.

### **Misrepresentation**

The most prevalent allegation made by consumers in complaints is misrepresentation of one or more provisions of the life insurance policy or annuity contract. Such allegations are typically made with respect to interest rates, strategy earnings, contract length, surrender charge schedules and death benefits, but are not limited to these topics.

Agents must provide consumers with a comprehensive description of the product during the sale. Only use materials that have been approved by Accordia Life as outlined in the Advertising Guidelines. When discussing any term or provision of a life insurance or annuity product with a consumer, use the Company's sales materials and disclosure documents in order to provide a complete and accurate explanation of the product. Upon delivery, review the terms and provisions of the contract and specifically discuss the "free look" opportunity. By taking these steps, you may prevent future allegations of misrepresentation.

Allegations regarding misrepresentation after the sale also occur. Be aware that information provided after the sale may lead to allegations of misrepresentation, and policy owners should never be provided information that is misleading or has the potential to be misleading.

### **Pretext Selling**

A growing concern identified by many regulators in recent years is the failure of insurance agents to clearly identify themselves as such and to deliberately camouflage the ultimate



reason for contacting a prospective customer. Broadly speaking, pretext selling can be described as a sales/marketing practice by an insurance agent through which:

- The true purpose of a seminar, workshop, meeting or appointment is disguised through the use of subject matter other than insurance products, particularly in marketing materials such as lead cards and seminar invitations, and/or
- The true identity of the agent as a person engaged in the sale of life insurance products and/or annuities is not disclosed, and some alternative description is used that could mislead a consumer into believing that an agent is an “advisor,” “consultant,” “planner”, “senior specialist,” or some similar term unrelated to sales.

Types of subject matter often involved in pretext selling include:

- Living trusts
- Tax preparation
- How to Avoid Probate
- How to reduce taxes on Social Security benefits
- Medicaid planning
- VA Benefits
- Roth Conversions

Particularly where true identity and purpose are not disclosed, and personal information is obtained from a prospective customer, there are instances in which state regulatory authorities have taken action against agents, marketing organizations and companies. For example, the state of California has described a “pretextual interview” as generally where a person, in an attempt to obtain information about a consumer, does one or more of the following:

- Misrepresents the true nature of the interview
- Pretends to be someone he or she is not
- Pretends to represent a person he or she is not, in fact, representing
- Refuses to identify himself or herself on request
- Fails to acknowledge that he or she is in the business of selling insurance products

If you intend on soliciting prospective clients for the sale of insurance products, you must not misrepresent the nature of your meeting. Prior to obtaining any financial information, whether in an initial telephone conversation or at a subsequent meeting, you are required to disclose that certain information gathered may be used to solicit insurance products. You should also be aware of your individual state’s requirements in this regard.

### **Rebating**

Rebating is illegal in most states, and prohibited by Accordia Life regardless of state.

A rebate involves the return of value of any kind to the customer in connection with the purchase of insurance. Nothing outside the contract may be introduced into the application process as an inducement to purchase a life insurance policy. Transactions that may be considered a rebate include, but are not limited to:

- Any gift designed to induce a purchase, where the gift’s value is significant in relationship to the policy’s premium
- Return of commissions earned
- “Free insurance”
- Payment by the agent or agency of any premium
- Refund of premium due to persistency of policy

Anti-rebating statutes are designed to (1) prevent the creation of competitive disadvantages among insurers and producers by creating a level playing field for all insurance professionals and (2) protect insurance consumers and the public at large from unfairly discriminatory rates and practices by ensuring that an insurance policy's written terms are applied consistently to all policyholders.

#### **Rebating vs. Promotional Gifts**

States have issued bulletins for clarification on their anti-rebating laws, specifically addressing what would be considered an inducement to purchase vs. an advertising or promotional incentive.

Keep in mind that it is your responsibility to:

- Refrain from making any offers of refunds or bonuses, which are not specifically stated in the insurance policy.
- Understand, know and abide by company policy and your states anti-rebating laws.
- Contact the applicable state Department of Insurance for clarification concerning that state's restrictions around promotional gifts.

#### **Use of "Scare Tactics"**

Accordia Life and Annuity Company understands that in the marketing of life insurance products, motivating a prospective customer to take action is a critical element in the sales process. During the sales process, an agent will often utilize a combination of experience-based knowledge and creative expression via promotional and marketing material and perhaps information supplied by a third party.

Any advertising and marketing material, as defined in our Advertising Guidelines and submission requirements, used in conjunction with the sale or attempted sale of an Accordia Life product, or to create an interest in Accordia Life or its products must be submitted for review. In the course of our review of advertising submissions, we sometimes discover messages, words, phrases and imagery that are inappropriate and require revision for a variety of reasons. In addition, we receive accounts from attendees at consumer-directed seminars and workshops about statements and statistical information that are either untrue or misleading, or are used in an inappropriate context. Regulators often consider such inappropriate or misleading statements and information to constitute the use of "scare tactics."

Accordia Life will not tolerate the use of scare tactics in the sales process.

Examples of statements that would likely be considered scare tactics by regulators include the following:

- "You know you'll never see a dime of Social Security - it's going bankrupt."
- "FDIC is underfunded - your CDs are not safe."
- "It's not a matter of if you will run out of money, it's just a question of when it will happen."
- "Just look at the pension funds that have gone bankrupt. Your pension is probably worthless."
- "Your assets will be seized when you go into a nursing home."
- "Probate is devastating. You must avoid it at all costs."
- "You're going to lose 70 percent of your 401(k) and IRA money to taxes."

Beyond specific statements, the use of statistical data, financial assumptions and quotations from third party sources should be accurate and in an appropriate context. In addition, such information should not be used to frighten a consumer into believing his/her current financial products or plans are not viable or that they will result in a financial disaster. For example, we have seen several instances in which a segment of statistical data is extracted from a broader study, it is used to promote the sale of our products, and the data is either used completely out of the context created by the source or is, in fact, used in direct opposition to the intent of the study.

The use of inappropriate imagery to motivate a customer may also be considered to be a scare tactic. Depictions of financially destitute individuals are totally inappropriate in promoting the sale of Accordia Life products. This is particularly troublesome when an inference is created by the use of such images that life insurance or annuity products are the only solution to prevent financial destitution.

Clearly, the advantages that Accordia insurance products can provide for customers are very impressive. The combination of Accordia Life's innovative product portfolio with your ability to analyze your clients' needs and objectives, and to utilize your sales skills, is truly powerful. Motivating a prospect to take action may take many forms and is different from one customer to the next. But the use of misleading information, unnecessary embellishment and, in the worst case, scare tactics, is unnecessary, unprofessional and potentially damaging to Accordia Life and the industry. We cannot and will not tolerate the use of scare tactics in the promotion of our products. Please keep in mind your avoidance of such tactics will go a long way in enhancing your own professionalism, reducing your exposure to complaints and regulatory inquiries, and ultimately fostering stronger client relationships.

## **SALES TO SENIORS /FINANCIAL EXPLOITATION AND ABUSE**

### **Senior Sales**

As a life insurance professional, you probably have existing clients as well as prospective clients that are considered "seniors" in the states in which you are licensed to do business. After all, life insurance needs do not necessarily cease upon the attainment of a certain age, and many seniors have a significant need for life insurance – for estate liquidity, wealth transfer, legacy planning or various needs in conjunction with business ownership.

While agents owe all their customers the same obligations and duties, regulators have demonstrated that a heightened duty of care is expected when agents interact with seniors or with those who may be deemed to be "vulnerable" if they lack the physical, mental or functional ability to make informed decisions about financial matters. In fact, the precursor to the NAIC Suitability In Annuity Transactions Model Regulation was the NAIC Senior Protection In Annuity Transactions Model Regulation.

More recently, a number of states have enacted new regulations that provide very specific protections for seniors in their interactions with financial services professionals and in their purchase of insurance and financial products. The state of California has established a number of requirements pertaining to sales to seniors - from advertising, to prospecting, to first contact, to the ultimate sale. Other states like Florida, Texas and Arizona, with a high percentage of retirees, have prescribed similar protections for their senior populations.

With increasing frequency, regulators take the view that the age and stage in life of the customer, as well as the extent of their experience with financial products, can influence how information presented to a client is perceived. For example, both state and federal regulators have noted that seminars aimed at seniors present unique challenges. If you engage in any type of seminar selling, particularly if your target audience is seniors, you need to be particularly vigilant in providing fair and balanced sales information to your audience.

It is your responsibility to be familiar with the insurance market conduct regulations of the states in which you do business and fulfill the requirements set forth under any senior-specific laws. The age threshold for persons considered to be “seniors” varies among state regulations, but it is generally identified as age 60 or age 65.

Any recommendation for the purchase of an Accordia Life product must be made on the basis of reasonable grounds to believe the recommendation is suitable for the customer. Assessment of what is “reasonable” for a given consumer is based on the information known by the agent at the time of sale. It is particularly important to carefully consider the amount of insurance you are recommending as well as the customer’s ability to pay for the planned premiums – both now and in the future.

Please refer to the Life Insurance Suitability & Best Practices Guide for additional information on the broader topic of suitability. Make sure that you are aware of specific state regulations regarding the extra duty of care when dealing with seniors as well as your responsibilities to identify and report suspected financial exploitation and abuse.

### **Financial Exploitation and Abuse**

In recent years, a number of states have enacted regulations designed to prevent financial exploitation of seniors and other vulnerable persons. As a sales professional in the financial services industry, you need to be aware of how to recognize financial exploitation and your duty to report it when you detect it in your interactions with clients and prospects.

#### **Potential Indicators of Financial Exploitation:**

Various suspicious activities (“red flags”) may help you recognize possible financial exploitation of clients who are seniors or other vulnerable persons. The mere presence of a red flag by itself does not necessarily indicate financial exploitation. The red flags identified below are warning signs that may warrant additional scrutiny.

Although the red flags set forth below refer to “seniors,” these indicators also apply to “vulnerable persons.” Vulnerable persons are individuals who are unable to protect themselves from abuse, neglect, or exploitation by others because of a physical or mental impairment. Red flags of possible financial exploitation include the following activities, whether by the senior or by an individual acting on behalf of the senior:

- Engaging in activity that is not consistent with expected behavior or past behavior. For example, taking several withdrawals within a brief time period in amounts that are not consistent with any prior withdrawal activity or that show a disregard for applicable surrender charges.
- Requesting a withdrawal or surrender where the funds will be used by an individual other than the senior for their own personal benefit, not for the senior’s benefit.
- Requesting a wire transfer when the senior does not seem to know where the money is going or what a wire transfer is.
- Requesting a change of beneficiary to the caregiver or attorney-in-fact under a Power of Attorney.

Red flags of possible financial exploitation also include the following interactions you may have with the senior, caregiver, attorney-in-fact, or other individual:

- The individual shows excessive interest in the senior's finances or assets, does not allow the senior to speak for himself or herself, or is reluctant to leave the senior's side during conversations.
- The senior or individual acting on behalf of the senior seems to speak in a scripted manner when attempting to obtain a withdrawal, surrender or transfer.
- The senior shows an unusual degree of fear or submissiveness toward the individual.
- The senior expresses a fear of eviction from his or her home, or a fear of nursing home placement, if money is not given to a caregiver.
- A new caregiver, relative, or friend suddenly attempts to conduct financial transactions on behalf of the senior without proper documentation.
- The senior or individual acting on behalf of the senior requests a change of beneficiary, especially to the individual acting on behalf of the senior or to a family member of such individual.
- The senior's financial management changes suddenly, such as changing of power of attorney to a different family member or a new individual.
- The senior lacks knowledge about his or her financial status, or shows a sudden reluctance to discuss financial matters.

If you suspect or have concerns that financial exploitation may be occurring, please contact Global Atlantic's Compliance Department at [fraud@gafg.com](mailto:fraud@gafg.com).

## SUITABILITY

### Suitability - why is it so important?

- It's about doing the right thing
- It's about matching the product to the customer
- It's about matching the sales concept to the customer
- It's about fostering a long-term relationship
- It's about being an insurance professional
- Extensive regulatory activity/discussion
- Frequent topic in both discussion with DOIs and in Market Conduct exams
- Area of considerable reputational damage to industry – companies and agents

### Suitability for Life Insurance Sales

Unlike the Model Regulation for Suitability in Annuity Transactions, there is no comparable regulation for life insurance sales. However, you need to understand two important points: (1) some states actually do have specific regulations that set forth suitability standards for life insurance sales, and (2) even where not covered by a specific statute or regulation on suitability, Accordia Life's expectation is that all of the recommendations you make to customers in the course of selling life insurance products are reasonable and based on assessment of the applicant's insurance needs and overall financial objectives.

Life insurance suitability considerations generally include:

- Financial Needs and Objectives
- Amount of Coverage
- Other Insurance
- Surrender Charges
- Distinction of guaranteed vs. non-guaranteed values

- Owner, Beneficiary, Insurable Interest, IOLI/STOLI
- Net Worth, Income, Liquidity Needs, Source of Funds
- Replacement Situations – adequate comparison of existing and proposed product

**For more information, please refer to the Accordia Life Agent’s Guide to Life Insurance Suitability and Best Practices.**

## TAX ADVICE

Similar to the discussion in the Investment Advice section of this Guide, producers are frequently involved in conversations with customers in which questions about taxation arise. There is a broad range of contexts in which such issues are discussed. Some pose more risk than others in terms of the likelihood the agent might be accountable for dispensing “tax advice” without the requisite qualifications, background and experience to do so. An example of this exposure can be found by examining your professional liability (E&O) policy. A typical insurance agent’s professional liability policy excludes tax advice from coverage, but generally will honor claims brought against an agent for statements about taxation that are “incidental” to the sale of a covered product.

You will note Accordia Life frequently includes the following standard disclosure language, or something similar, in many of its consumer-directed materials and many of the advanced markets presentations and tools provided for its producers:

*“The information that follows is intended to provide only a general discussion of the concepts contained herein and in no way should be construed as tax, investment or legal advice. The information provided is believed to be accurate as of the date presented. Some of the concepts discussed can be complex, and for each individual will require consultation with an attorney, accountant or tax advisor as part of the planning process.”*

At the same time, we recognize the discussion you have with your clients frequently includes information about the basic characteristics of life insurance and annuities. As an insurance professional, you should be aware of the basic tax aspects of the products you sell and be prepared to answer the customer’s questions in that regard. For example, you know the death proceeds of a life insurance policy are generally income tax-free, and the accumulated value of an annuity contract grows income tax deferred. There is nothing wrong with discussing such fundamental aspects of life insurance and annuity taxation with your customers. However, if you are uncertain about any of the basics in any of your interactions with customers, please contact Accordia Life’s Advanced Markets department for confirmation.

You also have an obligation to develop a fundamental understanding of some of the basic “tax traps” associated with planning that involves life insurance or annuity products. For example, certain ownership and beneficiary arrangements may have unanticipated tax consequences. Another example of a tax fundamental might be incidents of ownership by the insured, in a policy on the life of the insured, will likely lead to inclusion of the death proceeds of the policy in the insured’s taxable estate. General knowledge of the rules within IRC Section 1035 on allowable tax-free exchanges of policies is another common area of discussion. A solid insurance professional should know these tax fundamentals and be prepared to discuss them. That same insurance professional should make it clear to the client that he/she is providing information about incidental tax matters, not dispensing tax advice. As an insurance professional you often perceive your role as one of providing broad assistance to your customers to enhance their financial well being. Depending upon your licenses and designations, this may extend beyond insurance product and planning recommendations to

broader financial planning or advice. Even when an agent is insurance-licensed only, the agent may often find himself/herself in the position of responding to various questions from a prospect or client about a wide range of financial matters. Many agents establish relationships with their clients in which they become both a trusted professional and a personal confidant. Frequently, a seasoned insurance professional may know more about a client's financial needs and objectives, even their personal hopes and aspirations, than the client's attorney, accountant or other advisor. You are in a unique position to positively impact your client's future and that of the client's family.

On the other hand, it is also important to recognize that there is considerable risk associated with exceeding your expertise. Legal matters, legal documents and legal advice should be left to licensed attorneys. Tax and accounting advice should be left to tax attorneys and accountants.

## UNAUTHORIZED PRACTICE OF LAW

At Accordia Life, we encourage our agents to build relationships and work with other professionals. Developing a relationship with lawyers, CPAs, trust officers and other financial services professionals is not only appropriate but encouraged by Accordia Life in order to enhance the agent's professional growth and to provide a comprehensive approach to meeting a customer's financial and insurance needs and objectives. Frequently, customers look to their agents for information and/or advice regarding various financial, tax or estate planning matters. One of the key challenges posed to any insurance professional is how to provide general information within one's base of knowledge and experience, without "crossing the line" and providing professional advice or services for which the agent does not have the required professional license or the requisite training. This is particularly problematic regarding legal matters that are naturally intertwined with the placement of insurance products, as well as the planning context in which that occurs.

The **unauthorized practice of law** generally occurs when a person who is not an attorney gives legal advice or drafts legal documents that impact a person's rights. For example, this could arise in a situation where you may be discussing a person's need for insurance as part of an estate plan. To avoid the claim of unauthorized practice of law, you should keep your conversation general in nature, and ALWAYS state that you are not a lawyer and any such advice can only be given by a licensed attorney.

Below are examples of situations that could be construed to be the unauthorized practice of law:

- Advising a customer that certain legal documents, (without the advice of counsel), such as a living trust or power of attorney, are appropriate legal instruments for his/her estate planning needs. Example: "Based on your situation, you need to have a revocable living trust."
- Giving advice as to his/her legal rights and responsibilities. Example: "None of these assets that you currently have are protected from lawsuits or the Medicaid Office who will seize them if they can."
- Providing advice as to the selection, drafting, or completion of legal documents which affect the legal rights of an entity or person. Example: "Every person your age needs a living will, you included."
- Explaining legal principles of wills and trusts to clients in a manner that directs them to execute specific documents or to purchase specific legal services. Example: "A will is a public document that the court and anyone else will see when you die, and a living trust is a private document that works the same way. You don't want the whole world seeing how you wanted your estate distributed, do you? Therefore, a living trust is the preferred choice for people who like privacy."

- Advising a customer about the sufficiency of estate planning documents. Example: “Based on my review of your living trust and power of attorney, this all looks outdated and was done before laws changed, and I think you need to make some amendments.”
- Entering into an agreement or other understanding with and/or consideration to an attorney to recommend the purchase of insurance products to your customers. Example: “Sending a customer to a lawyer whom you pay to create estate planning documents, including the situation where that lawyer also recommends the purchase of insurance products for which you are the agent, or soliciting legal work for an attorney where the attorney recommends you as the insurance agent of choice.”
- Stating or implying that you are affiliated with or acting in connection with a lawyer with whom the customer is obtaining legal advice. Example: “Suggesting that you ‘work with’ or are part of an attorney’s law firm.”
- The practice of engaging in such acts as “fee splitting” or “commission splitting,” or the act of sharing fees with professional colleagues in return for a systematic stream of referrals. Many, if not all, states view this quid-pro-quo approach as an unethical and illegal trade practice.

### **Living Trust Mills**

In addition to the preparation of legal documents and/or providing legal or tax advice, a practice that likely meets the definition of the unauthorized practice of law, and also constitutes an unfair trade practice in most jurisdictions, is the operation of a so-called “living trust mill.” A living trust mill has a variety of definitions, but generally involves a marketing practice by an agent, sometimes working in conjunction with a licensed attorney who uses the guise of setting up or updating a living trust to entice potential customers to provide financial information when the sole or primary purpose of the contact is to solicit the sale of insurance products. This practice is unacceptable to the Company.

In recent years, marketing practices involving living trust mills or similar constructs have led to significant problems in several states, and resulted in significant fines, penalties, license revocations and litigation. California, for example, describes a living trust mill as “an unlawful marketing scheme designed to accomplish the sale of annuities that is principally used in the solicitation of senior citizens.” Therefore, this practice contains elements of pretext selling as described earlier in the section on Sales Practices. Typically, agents represent themselves as “estate planners” or “trust preparers.” Sometimes, they are working in conjunction with an attorney, a group of attorneys, a legal document preparation service provider or a prepaid legal services firm. Usually, there is no indication to the consumer of the actual business of the sales representative or the true purpose of the solicitation. The use of seminars purported to educate attendees on the advantages of living trusts or other estate planning devices is also a frequent characteristic of this form of marketing. Such a practice is unacceptable to Accordia Life. In addition, state bars and state attorneys general in a number of jurisdictions have concluded that these types of marketing approaches may constitute a deceptive trade practice and the unauthorized practice of law. In several instances, agents, marketing organizations and carriers have been fined, enjoined, forced to make restitution and lost their authority to conduct business.

### **Unauthorized practice of Law Reminders**

In order to ensure an agent does not participate in the unauthorized practice of law, he/she should refrain from:

- Offering of any legal advice and/or prepare any legal instruments.
- Holding themselves out to be experts in estate planning.



- Providing legal advice to convince customers that certain legal documents, such as a living trust or power of attorney, might be good options for their estate planning needs.
- Providing advice as to legal rights and responsibilities.
- Providing advice as to the selection, drafting, or completion of legal documents which affect the legal rights of an entity or person.
- Inducing customers to make decisions about the disposition of his or her estate based on information about a state's probate system.
- Explaining legal principles of wills and trusts to customers in a manner that directs the customers to choose certain estate planning documents.
- Providing recommendations based on the sufficiency or propriety of estate planning documents.
- Referring to yourself as an "estate planner," "trust specialist" or some similar description.
- Advising customers that life insurance and annuities are exempt from judgment creditors or making presumptive statements in that regard. While that may be true in some jurisdictions, state exemption statutes are complex, vary widely from state to state and often require legal interpretation.

## Notes

Notes

[globalatlantic.com](http://globalatlantic.com)

## Global Atlantic Financial Group

Global Atlantic Financial Group, through its subsidiaries, offers a broad range of retirement, life and reinsurance products designed to help our customers address financial challenges with confidence. A variety of options help Americans customize a strategy to fulfill their protection, accumulation, income, wealth transfer and end-of-life needs.

Global Atlantic was founded at Goldman Sachs in 2004 and separated as an independent company in 2013. Its success is driven by a unique heritage that combines deep product and distribution knowledge with leading investment and risk management, alongside a strong financial foundation.

Products issued by Accordia Life and Annuity Company, 215 10th Street, Des Moines, Iowa. Accordia Life is a subsidiary of Global Atlantic Financial Group Limited.

Global Atlantic Financial Group (Global Atlantic) is the marketing name for Global Atlantic Financial Group Limited and its subsidiaries, including Forethought Life Insurance Company and Accordia Life and Annuity Company. Each subsidiary is responsible for its own financial and contractual obligations. These subsidiaries are not authorized to do business in New York.

Neither the company nor its agents give legal or tax advice. You should always seek the opinion of your own legal or tax advisor prior to any transaction. Information presented is based on our understanding of current tax laws and regulations, which is subject to change.

This material is not intended to be used and cannot be used to avoid tax penalties. It was prepared to support the promotion or marketing of the matter addressed in this document.

Guarantees provided are subject to the financial strength of the issuing insurance company; not guaranteed by any bank or the FDIC.