

COMPLIANCE BULLETIN

Non-Resident State Solicitation

Global Atlantic wants to make sure its agents understand the rules and regulations pertaining 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 the customer’s 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 that only agents and companies properly licensed in their respective states are doing business with its residents. More than ever, state insurance departments are examining transactions in which residents 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 that you will experience situations in which there is an opportunity to sell a life insurance policy or annuity contract 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 does not occur in the applicant/owner’s state of residence, you must comply with the following guidelines and requirements:

- Provide accurate and complete disclosure to Global Atlantic of the location of solicitation, application and delivery.
- **Complete the Non-Resident Information Sheet (Form 16257).**
- 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.
- **The solicitation, the application, the premium collection and policy delivery must occur in that same state.**

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.

Keep in mind that, even in cases in which the Non-resident Information Sheet is completed and an explanation for the non-resident sale is provided, Global Atlantic reserves the right to decline applications based on other information or circumstances known to the company.

State regulators will not tolerate agents who deliberately bend the rules in the course of selling products to citizens outside their state of residence. A number of state insurance departments have issued bulletins to reinforce their positions on this subject.

Correspondingly, it is quite likely that many Global Atlantic 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.

NOTE: It is important that you understand that some states prohibit cross-border sales to residents of their states in general. From Global Atlantic's current interpretation of applicable state regulations and bulletins, it appears that 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 following are some reminders that summarize the rules around non-resident sales:

- 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 the prospect's 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.

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. 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 Global Atlantic Compliance Department to discuss the case.

If you have questions on these matters, please contact Global Atlantic's Compliance Department at gary.frank@gafg.com.