

# ADVISORS EXCEL COMPLIANCE

AE recognizes that marketing, advertising and promotion are all keys to a successful insurance sales practice. We want to help our producers achieve and sustain that success by informing them of and administering the regulatory standards associated with such material, and providing a fair and attentive review of all AE-created advertising material so that our staff and producers can use it confidently and professionally.

## • Introduction •

The insurance industry is heavily regulated, primarily by the states. The marketing, advertising and sale of life insurance and annuity products have become the subject of heightened regulatory scrutiny in recent years. In the area of advertising, underlying statutes, regulations, bulletins and guidelines continue to evolve. Many of the communications our producers 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 AE to realize that compliance issues can arise from the communications our producers have and the marketing or advertising material they share with both prospective and existing customers. When improper or unapproved advertising is used, it may result in reputation or image erosion for both our producers and AE, a negative reflection on our industry, insurance department complaints, marketing restrictions, and intensified regulation.

The guidelines in this Manual 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 producers 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:

- **Broad Definition of Advertising.** Please understand that the definition of “advertising” under the Model Regulation is very broad. For the purpose of this Manual, advertising is defined as any material designed to create interest in AE (or any affiliated company), its products or services, its producers or representatives, OR any material designed to induce the public to purchase, increase, modify, surrender, borrow on, reinstate or retain a life insurance policy or annuity contract of AE’s core carriers.
- **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. AE expects all of its producers 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 [emphasis added] 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).*

- **Please note: All material that can be reasonably expected to lead to the sale or attempted sale of an Allianz life insurance or annuity product, needs to be submitted for review and approved prior to use. Keep in mind that submission, review and approval is still required regardless of whether the material specifically mentions Allianz, its products or product features.**
- **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, an advertisement that includes any reference to AE's core carriers, their products or riders, or any features of such products or riders, must include the information described above and, of course, be submitted to such carrier for review and approval prior to use.
- **Accuracy and Truthfulness.** No advertising material that is used by AE producers 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."
- **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. The Model Regulation requires 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. And, 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.**
- **Disclosures.** AE's Ad Review Team has developed and maintains a database of standard disclosure language to assist in constructing compliant advertising and marketing material that will provide important information to customers.
  - **Remember that disclosures are meant to further clarify the content of any advertising material and are not to be used as a hedge for potentially misleading, incomplete or inaccurate information provided within the content of the material. The content of any advertising material should be sufficiently clear and all topics fully explained without the need for specific disclosures to provide the complete picture. Nonetheless, there are times when disclosures may be appropriate and in the objective we will cover some common generic examples for your reference. Certain disclosures would obviously need to be modified based on the producer's qualifications and the content of the material.**

## • Objectives •

This Compliance Manual was created to assist you in understanding important AE guidelines and procedures related to market conduct and compliance issues, and to help both AE staff and our producers develop a best practices approach to their business activities. In order to fairly and effectively conduct business, our staff and producers must have a thorough knowledge and understanding of AE's positions and guidelines, as well as the laws and regulations of the states in which our producers solicit business.

All of our producers are presented with the same fundamental challenges of successfully growing their business, achieving customer satisfaction and loyalty, and complying with the regulatory regimes of the states in which they operate. Our producers have made a commitment to their customers to provide life insurance and annuity products that provide value and versatility over a long period of time. For that reason, our producers must recognize the importance of making product recommendations based on customers' needs. Another common objective among our producers is maintaining solid long-term relationships with their customers by providing outstanding service after the sale. To further these goals, AE wants to equip our staff and our 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 and requirements, and training opportunities on compliance issues.

The business of selling and servicing life insurance and annuity products can be both challenging and rewarding. Long term success in the business is achievable only through a dedication to clients, respect for our industry, and a fundamental understanding of what constitutes acceptable market conduct in the eyes of regulators as well as the companies we represent.

AE and its producers must recognize that 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 AE's reputation as well as the reputation of our producers. The guidelines and positions described in this Manual reflect the goals and values of AE. Also understand that these guidelines are intended to help you become familiar with AE's compliance rules and standards that our producers have committed to follow under the terms of the Advisors Excel Compliance and Ethical Market Conduct Guidelines and that we have committed to enforce.

**Our staff and our producers should understand that AE is committed to conducting business in a manner that is consistent with the following principles of market conduct:**

- Principle 1:** To conduct business according to high standards of honesty and fairness and to render that service to its customers which, in the same circumstances, it would apply to or demand for itself.
- Principle 2:** To provide competent and customer-focused sales and service.
- Principle 3:** To engage in active and fair competition.
- Principle 4:** To provide advertising and sales materials that are clear as to purpose and honest and fair as to content.
- Principle 5:** To provide for fair and expeditious handling of customer complaints and disputes.
- Principle 6:** To maintain a system of supervision and monitoring that is reasonably designed to demonstrate the company's commitment to and compliance with these principles.

When we are truly focused on the needs, the goals, and the aspirations of our customers, we all benefit from the enduring relationships such a perspective creates. Please take the time to review this Guide and keep it in a convenient place for your own reference as needed.

# NAIC MODEL REGULATIONS

- The National Association of Insurance Commissioners (NAIC) Model Regulations (Model 570) provides guidance and sets standards for what may and may not be included in financial and insurance product advertisements. The following information provides the text of relevant sections of NAIC Model 570 as well as a brief discussion of how those regulations are applicable to the advertisement review process.

## • NAIC Model 570 section 1 •

### • Purpose:

- The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

### • Summary:

- Section one of the NAIC model regulations states the purpose. These regulations were produced to provide standard rules for the advertising of insurance products. Not all states have adopted the guidelines set forth by the NAIC; some have adopted only particular sections, while others have adopted the rules in their entirety and a few have not yet implemented any of the regulations.

## • NAIC Model 570 section 2 •

### • Definitions:

- Advertisement:
- Material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy including [but not limited to]:
  - Printed and published material, audiovisual material and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, telemarketing scripts, billboards and similar displays, and the Internet or any other mass communication media;
  - Descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed or used by the insurer or insurance producer; including but not limited to circulars, leaflets, booklets, web pages, depictions, illustrations and form letters;
  - Material used for the recruitment, training and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;
  - Prepared sales talks, presentations and material for use by insurance producers.

- “Advertisement” for the purpose of this regulation shall not include:
  - Communications or materials used within an insurer's own organization and not intended for dissemination to the public;
  - Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy

- Examples of Advertising:

- |                          |                       |                               |
|--------------------------|-----------------------|-------------------------------|
| • Audio Recordings       | • Brochures           | • Business Cards              |
| • E-mails                | • Illustrations       | • Invitations                 |
| • Lead Cards/Postcards   | • Letterheads         | • Magazine Ads                |
| • Magazine Articles      | • Needs Analysis      | • Newsletters                 |
| • Newspaper Ads          | • Newspaper Articles  | • Posters/Banners             |
| • Presentations/Seminars | • Press Releases      | • Producer Training Materials |
| • Product Fact Sheets    | • Profiles            | • Prospecting Letters         |
| • Radio                  | • Telemarketing Ads   | • Television Ads              |
| • Television Appearances | • Video Presentations | • Websites                    |

- **Summary:**

- Regardless of the licenses you possess or the regulatory requirements to which you are subject, it often appears that there is very little room for creativity when it comes to advertising. Even if the material you are considering using does not seem to fit within the above categories, if you plan on using it at any point in the sales process , it is likely to be considered advertising.

**• When are Advertisements Subject to Review by an FCO? •**

The Compliance Department reviews all material created by Advisors Excel and provides feedback to the Creative Department regarding any compliance concerns within the material. While the Compliance Team is responsible for the final approval of some materials, in-scope projects require us to send them for review by either an Empowered FCO (Currin), or insurance carrier. Material only needs to be reviewed by an insurance carrier if any content - directly or indirectly- references that carrier, its product(s), or any feature(s) of its product(s). For example, a PowerPoint explaining an individual producer’s annuity sales strategy must be sent to an Empowered FCO for review when the final product is complete. Likewise, if that PowerPoint contained information related to a specific carrier or carrier product, it must be sent to that carrier for review. A PowerPoint containing both in-scope material and a specific carrier must be sent to an Empowered FCO as well as that carrier. Below is a list of material that is considered in-scope along with examples of carriers; it contains the most common types of material requiring outside review and is subject to change.

**• In-Scope Material Requiring Outside Review by an FCO •**

- |   |                                       |
|---|---------------------------------------|
| • Advanced marketing pieces                   | • Non-carrier specific annuity pieces |
| • Lead generation                             | • Training materials for agents       |
| • Seminars- including invitations and agendas | • Sales concepts                      |

### • NAIC Model 570 section 3 •

#### • **Applicability:**

- This regulation shall apply to any life insurance or annuity advertisement intended for dissemination in [the United States]. (See summary)
- All advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement. Insurers shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies.

#### • **Summary:**

- Depending on the license(s) producers possess, their advertisements may be subject to multiple sets of regulatory requirements at both state and federal levels. Inasmuch as producers are ultimately responsible for any advertisements they use, regardless of by whom written, created, designed or presented, you should be familiar with the state insurance laws and regulations of all states in which insurance sales are solicited, as well as the compliance requirements of the insurance carriers Advisors Excel works with.

### • NAIC Model 570 section 4 •

#### • **Form and Content of Advertisements:**

- Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.
- No advertisement shall use the [following] terms:
  - Investment
  - Charter
  - Expansion Plan
  - Profit Sharing
  - Savings Plan
  - Investment Plan
  - Plan
  - Profit
  - Interest Plan
  - Private Pension Plan
  - Founder's Plan
  - Deposit
  - Profits
  - Savings
  - Retirement Plan

. . . or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of policy . . .

#### • **Summary:**

- Language in National Association of Insurance Commissioners (NAIC) models on advertising prohibits the use of these terms if they may lead a consumer to infer that the product they are purchasing is anything other than what it is held out to be in the advertisement. For example, an insurance-only producer cannot use the words “investment plan” when referring to fixed annuities

or other insurance company products.

- Investments are securities; IO professionals are prohibited from using securities terms because they do not hold the proper license to discuss them. Use of securities terms in advertisements may lead a consumer to believe they are purchasing a securities product when they are, in fact, purchasing an insurance product or annuity. To remedy the example above, consider replacing “investment plan” with “financial vehicle,” or another similar alternative.
- When reviewing material for compliance, step back and look at the overall impression of the content. If, as a whole, the advertisement has the capacity or tendency to mislead or deceive, the problematic words and phrases need to be replaced for clarity.

#### • NAIC Model 570 section 5 •

#### • Disclosure Requirements:

- The information required to be disclosed by this regulation shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.
- An advertisement shall prominently describe the type of policy advertised.
- An advertisement shall not use as the name or title of a life insurance policy any phrase that does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance. An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word "annuity" unless accompanied by other language clearly indicating it is an annuity.
- An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no insurance producer or commission involved there will be a cost saving to prospective purchasers unless that is the fact.
- The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor shall be prominently disclosed . . .
- No insurance producer may use terms such as "financial planner," "investment adviser," "financial consultant" or "financial counseling" in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case.
- Unless otherwise specified in [the governing state's rules and regulations], an advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth, with equal prominence comparable illustrations or statements containing or based upon the guaranteed policy elements.
- Testimonials, appraisals or analysis used in advertisements must:
  - be genuine;
  - represent the current opinion of the author;

- be applicable to the policy advertised, if any; and
  - be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the testimonial, analysis or endorsement.
- In using testimonials, or endorsements; the insurance producer makes as its own all the statements contained therein. These statements are subject to the provisions of this regulation.
  - If the individual making a testimonial or endorsement has a financial interest in the insurer or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.
  - An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.
  - An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any statistics used in advertisement shall be identified.
- Below are a few examples to consider in applying the above mentioned regulations:

EXAMPLE	
NON-COMPLIANT	COMPLIANT
Five year term <b>life policy</b>	Five year term life <b>insurance</b> policy
Immediate Fixed <b>Index product</b>	Immediate Fixed Index <b>Annuity</b> product
We know life insurance is expensive, that's why we <b>won't charge a commission</b> on our cost-saving Term Life Insurance policy.	We know life insurance is expensive, that's why we're offering <b>\$100 off of your first month's payment and won't charge a commission</b> on our cost-saving Term Life Insurance policy.
Our insurance <b>premiums never change</b> , so consider purchasing your policy today for the low cost of \$100.  SEE COMMENT BOX 1 BELOW	Our insurance <b>premiums are subject to change</b> , so consider purchasing your policy today for the low cost of \$100.  SEE COMMENT BOX 1 BELOW
<b>Insurance Only Producer:</b> Sign up now for an informational meeting and enjoy your first retirement income review at <b>no additional cost- a \$100 value.</b>  SEE COMMENT BOX 2 BELOW	<b>Dually Licensed Producer:</b> Sign up now for an informational meeting and enjoy your first retirement income review at <b>no additional cost- a \$100 value.</b>  SEE COMMENT BOX 2 BELOW
<b>Comment 1:</b> In this example the non-compliant advertisement states that the company's premiums never change, therefore, they are guaranteed issue, which contradicts the NAIC Model Regulation. However, the compliant advertisement does follow the NAIC guideline. The company's insurance premiums are subject to change, which makes them non-guaranteed issue. Non-guaranteed issue advertisements may reference products as low-cost or inexpensive.	
<b>Comment 2:</b> The difference between the non-compliant and compliant scenario is the licensing of each agent. IO producers are prohibited from stating that there is no additional cost for a review because they do not charge a fee for their services, thus making the statement untrue. However, DL producers <b>can</b> charge a fee for their services. For this reason, the DL scenario is compliant because the statement is true.	



- **Summary:**

- Section 5 lists the different attributes of an advertisement that require a disclosure. Disclosures must be in close proximity to the wording that requires its use, or intermingled within the text of the document. Any use of the “[F]or financial professional use only – not to be used with the general public or in a sales situation,” disclosure must be in size 14 point font. When the use of any other disclosure is required it must be the same font size as the text of the material, and no smaller than 10 point. However, disclosures on all PowerPoints should be 14 point unless the body of the slide is smaller.

- **Important to Note:**

- Disclosures are not intended to remedy improper use of designations, problematic words or phrases, misleading images, et cetera. The use of disclosures is to provide further clarity on concepts within an advertisement and will not render a producer immune from potential discipline.

• **NAIC Model 570 section 6** •

- **Identity of Insurer:**

- The name of the insurer shall be clearly identified in all advertisements about the insurer or its products.
  - California and Arkansas require agents to include their license number on advertisements.
- An advertisement shall not use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with a governmental program or agency.

- **Summary:**

- If an advertisement contains information about the insurer of a product or any of its products the name of the insuring company must be identified in the content. Further, any content within the advertisement must not lead consumers to believe that the company, agent or product is affiliated with the United States government. For example, a picture of a bald eagle or the White House may lead a consumer to infer that the producer of the material is affiliated with a government entity when that is not the case.

## • NAIC Model 570 section 7 •

### • Jurisdictional Licensing and Status of Insurer:

- An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply the agent/advisor is licensed beyond those limits.
- Insurers and insurance producers cannot distribute advertisements stating the jurisdictions in which they are licensed if those advertisements suggest or imply that competing insurers or insurance producers may not be licensed in those jurisdictions.
- An advertisement shall not create the impression that the subject of the advertisement is endorsed by any governmental entity.
  - If an advertisement contains content that may imply a government affiliation (i.e., taxes, Social Security, etc.) the following disclosure should be provided:
    - [Firm Name] is not affiliated with the U.S. government or any governmental agency.
    - Please remember that disclosures do not mitigate any problematic content, but rather are included to provide consumers with further clarity regarding the content of the advertisement.
  - However, where a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

### • Summary:

- Insurance agents may distribute advertisements in jurisdictions in which they are not licensed provided the advertisement does not imply the agent is licensed to sell insurance in that jurisdiction. Further, agents cannot suggest that competing insurers or insurance producers may not be licensed in a given jurisdiction. Lastly, advertisements should not imply the topic of the advertisement is endorsed by the U.S. government unless that is the case and inclusion of the endorsement in the advertisement has been approved by the relevant government entity.

## • NAIC Model 570 section 8 •

### • Statements About the Insurer:

- An advertisement shall not contain false or misleading statements, pictures or illustrations with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance industry.
- An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation. This includes, but is not limited to, the placement of the insurer's rating in the hierarchy of the rating system cited.

- **Summary:**

- In short, advertisements should not contain financial information or ratings of insurance companies. Inclusion of that content has the potential to promote consumer bias regarding insurers.

• **NAIC Model 570 section 9** •

- **Enforcement Procedures:**

- Insurers shall maintain a complete file containing a copy of every printed, published or prepared advertisement of its policies disseminated in the state.
- If a state insurance commissioner determines an advertisement has the capacity or tendency to mislead or deceive the public he/she may require an insurer or insurance producers to submit all or any part of the advertising material for review or approval prior to use.
- All insurers shall file an annual document stating that to the best of the authorized officer of the insurer's knowledge, the advertisements disseminated were complied.

- **Summary:**

- Insurers must keep records of all advertisements they distribute. If a state insurance commissioner deems an agent's or insurer's advertisement to be misleading or deceptive they may require the agent or insurer to submit future advertisements for review/approval. Insurers shall submit an annual statement that all advertisements were complied prior to distribution.

• **NAIC Model 570 section 10** •

- **Penalties:**

- An insurer or its officer, directors, producers or employees that violate any of the provisions of this regulation, or knowingly participate in or abet such violation, shall be subject to a fine up to \$1000 for each violation and suspension or revocation of its certificate of authority or license.

- **Summary:**

- Be compliant or risk receiving a fine or loss of license.