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# Market Conduct

Most state Insurance Departments are advising insurers of their responsibility to make sure that they and their agents (including Marketing Companies, Administrative Companies, General Agents, Managing General Agents, and Agents) review their sales material and marketing techniques **to assure that they are not invoking practices that may be misleading to the consumers.**

Many Insurance Departments now require that Agents be terminated for failure to comply with advertising regulations (which actually includes regulation of all sales materials including audio, video, digital and printed). In addition, ISM and the insurance company are required to inform the state Insurance Departments as to the reason for the termination of any Agent. **Therefore, any misconduct on the part of an agent that results in a termination will be part of the permanent record of that Agent.** In order to keep public trust and maintain the integrity of ISM, we must always act responsibly as it relates to market conduct. Questionable practices may include one or more of, but are not limited to, the following:

- Use of advertising that tends to mislead and/or deceive the public.
- Failure to provide truthful and adequate disclosure of all material and relevant information in advertising.
- Mislabeling of products.

**Make no mistake. Insurance Departments include all sales material as advertising material.** Most Insurance Departments are now holding companies and General Agents directly responsible for the marketing practices of Agents. ISM Managers are considered General Agents by the Insurance Departments of every state.

It is your obligation to be sure that all advertising (to both Agents and consumers) and sales practices are **in compliance with the letter and spirit of the various state laws and regulations.**

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Specifically, the following procedures must be adhered to:

- All printed material (including newspapers or magazines, business cards, stationery, etc.) and video, audio, digital and printed materials must have written approval from ISM before it can be used. Ads and mailers to prospective Agents and/or clients must comply with the following:
  - May not include ledger illustrations
  - May not mention mutual funds
  - May not mention the words “investment”, “deposit”, “savings plan” “private pension plan”, “contributions”, “retirement plan”, or “guaranteed”, which, if used in an improper context, may be misleading and deceptive
  - Memos on checks must not say “savings”, “mutual funds”, “investment”, “retirement”, “pension”, “college funding”, or “college savings”, “FLEX” is acceptable.
  - May not quote performance/interest rate yields
  - Business cards and letterheads may not mention any of the above or use an unauthorized Agent title or position

**Once again, all material MUST be submitted to ISM, and approved in writing by ISM prior to use.**

- Special care must be given to the manner in which illustrations are given to consumers. Under no circumstances should the ISM software be altered, except for scheduled annuity rate adjustments, and only as instructed by ISM. In addition, we strongly recommend that an Illustration signed by the applicant accompany each application for insurance in which an Illustration was used in the sales process. The Life Illustration Acknowledgment (Form AG/LIACK), completed and signed by the client, may be substituted for a signed illustration. One or the other must be included with the application.
- Agent is responsible for adhering to all state regulations for solicitation and replacement. Agent must follow the only approved and authorized sales script, which is provided by ISM with the sales material at the time of contracting.

***Note: Do not add any unauthorized material to the script.***

- Agent is responsible for clients understanding that they are purchasing a life insurance policy/certificate with an annuity rider, with the option to redirect their second year and subsequent non-insurance premiums for the annuity to a separate investment of their choice.
  - Agent is responsible for making sure that clients absolutely understand that the additional first year premium is not refundable should they cancel the plan before the end of ten years.
  - Agent is responsible for keeping a client file that includes a copy of every form signed by the client, and for providing copies of appropriate forms to the client.
  - Agent is responsible for returning withdrawn applications and premium checks to either the client or ISM Administrators as instructed, in a timely manner.
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- Agent is responsible for adhering to the delivery requirements as established by ISM.

With respect to inquiries, the Insurance Company and ISM recognize inquiries from state Departments of Insurance as well as clients. Inquiries may include, but not necessarily be limited to, the following:

- Misrepresentation
- Fraud (including forged signatures on any applications, any business forms, or contract documents)
- Benefit misunderstanding by client or Agent
- Manipulation of premiums or mode premium to the benefit of Agent
- Any action knowingly taken to the detriment of an Insured, Agent, ISM and its affiliate companies, or the insurance company

**The information contained in this section does not represent the entirety of the state regulations and laws governing the life and health industry.**

**Agents are responsible for knowing and implementing all of their home and non-resident state regulations.**

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