ALABAMA DEPARTMENT OF INSURANCE
INSURANCE REGULATION
ADMINISTRATIVE CODE

CHAPTER 482-1-137
SUITABILITY PROTECTION IN ANNUITY TRANSACTIONS

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482-1-137-.01 Authority.

This chapter is issued under the authority of Sections 27-2-17 and 27-12-1, et seq., Code of Ala. 1975.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.02 Purpose [Effective 1/1/2022).

(1) The purpose of this chapter is to require producers, as defined in this chapter, to act in the best interest of the consumer when making a recommendation of an annuity and to require

insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

(2) Nothing herein shall be construed to create or imply a private cause of action for a violation of this chapter or to subject a producer to civil liability under the best interest standard of care outlined in Rule 482-1-137-.06 or under standards governing the conduct of a fiduciary or a fiduciary relationship.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** July 21, 2016; effective January 1, 2017. Filed with LRS July 21, 2016. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.03 Scope [Effective 1/1/2022).

This chapter shall apply to any sale or recommendation of an annuity.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** July 21, 2016; effective January 1, 2017. Filed with LRS July 21, 2016. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.04 Exemptions [Effective 1/1/2022).

Unless otherwise specifically included, this chapter shall not apply to transactions involving:

(a) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this chapter.

(b) Contracts used to fund any of the following:

1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA).

2. A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer.

3. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC.

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(c) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

(d) Formal prepaid funeral contracts.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** July 21, 2016; effective January 1, 2017. Filed with LRS July 21, 2016. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.05 Definitions [Effective 1/1/2022).

The following definitions shall also apply in this chapter:

(a) ANNUITY. An annuity that is an insurance product under state law that is individually solicited, whether the product is classified as an individual or group annuity.

(b) CASH COMPENSATION. Any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

(c) CONSUMER PROFILE INFORMATION. Information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs

and financial objectives, including, at a minimum, all of the following:

1. Age.

2. Annual income.

3. Financial situation and needs, including debts and other obligations.

4. Financial experience.

5. Insurance needs.

6. Financial objectives.

7. Intended use of the annuity.

8. Financial time horizon.

9. Existing assets or financial products, including investment, annuity and insurance holdings.

10. Liquidity needs.

11. Liquid net worth.

12. Risk tolerance, including but not limited to, willingness to accept non-guaranteed elements in the annuity.

13. Financial resources used to fund the annuity.

14. Tax status.

(d) CONTINUING EDUCATION CREDIT OR CE CREDIT. One continuing education credit as defined in Alabama Insurance Regulation 110, Chapter 482-1-110.

(e) CONTINUING EDUCATION PROVIDER OR CE PROVIDER. An individual or entity that is approved to offer continuing education courses pursuant to Alabama Insurance Regulation 110, Chapter 482-1-110.

(f) FINRA. The Financial Industry Regulatory Authority or a successor agency.

(g) INSURER. A company required to be licensed under the laws of this state to provide insurance products, including annuities.

(f) INSURANCE PRODUCER. A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

(g) RECOMMENDATION. Advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase, exchange, or replacement of an annuity in accordance with that advice.

(h) INTERMEDIARY. An entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.

(i)1. MATERIAL CONFLICT OF INTEREST. A financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation.

2. "Material conflict of interest" does not include cash compensation or non-cash compensation.

(j) NON-CASH COMPENSATION. Any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

(k) NON-QUARANTBED ELEMENTS. The premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest-based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(l) PRODUCER. A person or entity required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. For purposes of this regulation, "producer" includes an insurer where no producer is involved.

(m)1. RECOMMENDATION. Advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, an exchange, or a replacement of an annuity in accordance with that advice.

2. "Recommendation" does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(n) REPLACEMENT. A transaction in which a new policy or contract is to be purchased, and it is known or should be

known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be any of the following:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated.

2. Converted to reduced paid-up insurance, continued an extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values.

3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

4. Reissued with any reduction in cash value.

5. Used in a financed purchase.

(o) SEC. The United States Securities and Exchange Commission.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** July 21, 2016; effective January 1, 2017. Filed with LRS July 21, 2016. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.06 Duties Of Insurers And Producers [Effective 1/1/2022).

(1) Best Interest Obligations. A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if they have satisfied the following obligations regarding care, disclosure, conflict of interest, and documentation:

(a)1. Care Obligation. The producer, in making a recommendation, shall exercise reasonable diligence, care, and skill to accomplish all of the following:

(i) Know the consumer's financial situation, insurance needs, and financial objectives.

(ii) Understand the available recommendation options after making a reasonable inquiry into options available to the producer.

(iii) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objective over the life of the product, as evaluated in light of the consumer profile information.

(iv) Communicate the basis or bases of the recommendation.

2. The requirements of subparagraph 1. include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

3. The requirements of subparagraph 1. require a producer to consider types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs and: financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

4. The requirements under this paragraph (1) do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in this chapter.

5. The consumer profile information, characteristics of the insurer, and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives, but the level of importance of each factor under the care obligation of this subparagraph (a) may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

6. The requirements under subparagraph 1. include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

7. The requirements under subparagraph 1. apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

8. The requirements under subparagraph 1. do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

9. The requirements under subparagraph 1. do not mean the producer has ongoing monitoring obligations under the care obligation under this subparagraph (a), although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising or financial planning agreement between the consumer and the producer.

10. In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

(i) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living or other contractual benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements.

(ii) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product.

(iii) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

11. Nothing in this chapter should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this chapter; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

(b) Disclosure obligation.

1. Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a

form substantially similar to Appendix A, all of the following:

(i) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction.

(ii) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

(I) Fixed annuities.

(II) Fixed indexed annuities.

(III) Variable annuities.

(IV) Life insurance.

(V) Mutual funds.

(VI) Stocks and bonds.

(VII) Certificates of deposit.

(iii) An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using any of the following descriptions:

(I) One insurer.

(II) From two or more insurers.

(III) From two or more insurers although primarily contracted with one insurer.

(iv) A description of the sources and types of cash compensation and non-cash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other producer or by fee as a result of a contract for advice or consulting services.

(v) A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph 2.

2. Upon request of the consumer or the consumer's designated representative, the producer shall disclose both of the following:

(i) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages.

(ii) Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages.

3. Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or other options of the annuity, limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance and investment components and market risk. The requirements of this paragraph are intended to supplement and not replace the disclosure requirements of Chapter 482-129.

(c) Conflict of interest obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

(d) Documentation obligation. A producer shall at the time of recommendation or sale, do all of the following:

1. Make a written record of any recommendation and the basis for the recommendation subject to this chapter.

2. Obtain a consumer signed statement on a form substantially similar to Appendix B documenting both of the following:

(i) A customer's refusal to provide the consumer profile information, if any.

(ii) A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information.

3. Obtain a consumer signed statement on a form substantially similar to Appendix C acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

(e) Application of the best interest obligation. Any requirement applicable to a producer under this paragraph (1) shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back-office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

(2) Transactions not based on a recommendation.

(a) Except as provided under subparagraph (b), a producer shall have no obligation to a consumer under subparagraph (a) of paragraph (1) related to any annuity transaction if:

1. No recommendation is made.

2. A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer.

3. A consumer refuses to provide relevant consumer profile information requested and the annuity transaction is not recommended.

4. A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

(b) An insurer's issuance of an annuity subject to subparagraph (a) shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(3) Supervision system.

(a) Except as permitted under paragraph (2), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives based on the consumer’s consumer profile information.

(b) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this chapter, including, but not limited to, all of the following:

1. The insurer shall establish and maintain reasonable procedures to inform its producers of the requirements of this chapter and shall incorporate the requirements of this chapter into relevant producer training manuals.

2. The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its insurance producers to comply with the requirements of Rule 482-1-137-.06.1.

3. The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its producers.

4. The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria.

5. The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with paragraphs (1), (2), (4), and (5). This may include, but is not limited to, confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures, or byconfirming the consumer profile information or other required information under this rule after issuance or delivery of the annuity.

6. The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided

to the consumer the information required to be provided under this rule.

7. The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information.

8. The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time.

9. The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(c)1. Nothing in paragraph (3) restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under paragraph (3). An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to Rule 482-1-137-.07 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph 2.

2. Aninsurer's supervision system under this paragraph (3) shall include supervision of contractual performance under this paragraph (3). This includes, but is not limited to, the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed.

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

(d) An insurer is not required to include in its system of supervision either of the following:

1. A producer's recommendations to consumers of products other than the annuities offered bythe insurer.

2. Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

(4) Prohibited Practices. Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from doing any of the following:

(a) Truthfully responding to an insurer's request for confirmation of the consumer profile information.

(b) Filing a complaint.

(c) Cooperating with the investigation of a complaint.

(5) Safe Harbor.

(a) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this chapter. This paragraph (5) applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this paragraph (5) shall limit the insurance commissioner's ability to investigate and enforce the provisions of this chapter.

(b) Nothing in subparagraph (a) shall limit the insurer's obligation to comply with subparagraph (a) of paragraph (3), although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

(c) For subparagraph (a) to apply, an insurer shall do both of the following:

1. Monitor the relevant conduct of the financial professional seeking to rely on subparagraph (a) or the entity responsible for supervising the financial professional, such as the financial professional 's broker-dealer or an investment adviser registered under federal or state securities laws using information collected in the normal course of an insurer's business.

2. Provide to the entity responsible for supervising the financial professional seeking to rely on subparagraph (a), such as the financial professional's broker-dealer or investment adviser registered under federal or state

securities laws, information and reports that are reasonably appropriate to assist the such entity to maintain its supervision system.

(d) For purposes of paragraph (5), "financial professional" means a producer that is regulated and acting as any of the following:

1. A broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer.

2. An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser.

3. A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (BRISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

(e) For purposes of paragraph (5), "comparable standards" means:

1. With respect to broker dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest and any amendments or successor regulations thereto.

2. With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or m1der the Investment Advisers Act of 1940 or applicable state securities law, including but not limited to, the Form ADV and interpretations.

3. With respect to plan fiduciaries or fiduciaries, means the duties, obligations, prohibitions and all other requirements attendant to such status under BRISA or the IRC and any amendments or successor statutes thereto.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
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to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.06.1 Producer Training [Effective 1/1/2022).

(1) A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this paragraph.

(2)(a)1. A producer who engages in the sale of annuity products shall complete a one-time four (4) credit training course approved by the department of insurance and provided by the department of insurance-approved education provider.

2. Producers who hold a life insurance line of authority on the effective date of this regulation and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this regulation. Individuals who obtain a life insurance line of authority on or after the effective date of this regulation may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

(b) The minimum length of the training required under this paragraph shall be sufficient to qualify for at least four (4) CE credits, but may be longer.

(c) The training required under this paragraph shall include information on the following topics:

1. The types of annuities and various classifications of annuities.

2. Identification of the parties to an annuity.

3. How product specific annuity contract features affect consumers.

4. The application of income taxation of qualified and non-qualified annuities.

5. The primary uses of annuities.

6. Appropriate standard of conduct, sales practices, replacement and disclosure requirements.

(d) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(e) A provider of an annuity training course intended to comply with this paragraph shall register as a CE provider in this State and comply with the rules and guidelines applicable to producer continuing education courses as set forth in Alabama Insurance Regulation II0, Chapter 482-1-110.

(f) A producer who has completed an annuity training course approved by the department of insurance prior to January 1, 2022, shall, within six (6) months after January 1, 2022, complete either of the following:

1. A new four (4) credit training course approved by the Department of Insurance after January 1, 2022.

2. An additional one-time one (1) credit training course approved by the Department of Insurance and provided by the approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended chapter.

(g) Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with Alabama Insurance Regulation 110, Chapter 482-1-110.

(h) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with Alabama Insurance Regulation 110, Chapter 482-1-110.

(i) The satisfaction of the training requirements of another State that are substantially similar to the provisions of this paragraph shall be deemed to satisfy the training requirements of this paragraph in this State.

(j) The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this paragraph shall be deemed to satisfy the training requirements of this paragraph in this state.

(k) An insurer shall verify that an insurance producer has completed the annuity training course required under this paragraph before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this paragraph by obtaining certificates

of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
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482-1-137-.07 Compliance Mitigation; Penalties; Enforcement [Effective 1/1/2022).

(1) An insurer is responsible for compliance with this chapter. If a violation occurs, either because of the action or inaction of the insurer or its producer, the commissioner may order any of the following:

(a) An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this chapter by the insurer, an entity contracted to perform the insurer's supervisory duties, or by the producer.

(b) A general agency, independent agency or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer’s violation of this chapter.

(c) Appropriate penalties and sanctions.

(2) Any applicable penalty under Section 27-12-1 et seq. Code of Ala. 1975 for a violation of Rule 482-1-137-.06(1), (2) or (3)(b) may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

(3) The authority to enforce compliance with this chapter is vested exclusively with the commissioner.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** July 21, 2016; effective January 1, 2017. Filed with LRS July 21, 2016. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.08 Recordkeeping [Effective 1/1/2022).

(1) Insurers, general agents, independent agencies and producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for three (3) years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer.

(2) Records required to be maintained by this chapter may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: New Rule: May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.09 Severability.

If any portion of this chapter or its applicability to any person or circumstance is held invalid by a court, the remainder of the chapter or the applicability of the provision to other persons or circumstances shall not be affected.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: New Rule: May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-.10 Effective Date [Effective 1/1/2022).

This chapter shall be effective January 1, 2022, upon its approval by the Commissioner of Insurance and upon its having been on file as a public document in the office of the Secretary of State for ten days.
Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** May 19, 2006; effective January 1, 2007. Filed with LRS May 22, 2006. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** July 21, 2016; effective January 1, 2017. Filed with LRS July 21, 2016. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-AA **Appendix A Insurance Agent (Producer) Disclosure For Annuities.**

APPENDIX A
[Effective 1/1/2022)

INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES
Do Not Sign Unless You Have Read and Understand the Information in this Form

Date: _____

INSURANCE AGENT (PRODUCER) INFORMATION ("Me", "I", "My")

First Name: _____ Last Name: _____

Business\Agency Name:_____Website:_____

Business Mailing Address: _____

Business Telephone Number:_____

Email Address:_____

National Producer Number in [state]: _____

CUSTOMER INFORMATION ("You", "Your")

First Name: _____ Last Name: _____

What Types of Products Can I Sell You?
I am licensed to sell annuities to you in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds, also may meet Your needs.

I offer the following products:

- ☐ Fixed or Fixed Indexed Annuities
- ☐ Variable Annuities
- ☐ Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized toprovide advice about or to sell.

- ☐ Mutual Funds
- ☐ Stocks/Bonds
- ☐ Certificates of Deposits

Whose Annuities Can I Sell to You?

I am authorized to sell:

□ Annuities from Only One (1)Insurer	□ Annuities from Two or More Insurers
□ Annuities from Two or More Insurers although I primarily sell annuities from:_____	

How I'm Paid for My Work:

It's important for You to understand how I'm paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by the consumer. If You have questions about how I'm paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

- □ Commission, which is usually paid by the insurance company or other sources. If other sources, describe:_____
- □ Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), which are usually paid directly by the customer.
- □ Other (Describe):_____

If you have questions about the above compensation I will be paid for this transaction, please ask me.

I may also receive other indirect compensation resulting from this transaction (sometimes called "non-cash" compensation), such *as* health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

*[**Drafting Note:** This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with more precise disclosure, including a written consulting, advising or financial planning agreement.*

***Drafting Note:** The acknowledgement and signature should be in immediate proximity to the disclosure language.]*

By signing below, you acknowledge that you have read and understand the information provided to you in this document.

_____

Customer Signature

_____

Date

_____

Agent (Producer) Signature

_____

Date

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-AB **Appendix B Consumer Refusal To Provide Information.**

APPENDIX B

[Effective 1/1/2022)

CONSUMER REFUSAL TO PROVIDE INFORMATION

Do Not Sign Unless You Have Read and Understand the Information in this Form

Why are you being given this form?

You're buying a financial product- an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company needs information about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets your needs, objectives and situation. You may lose protections under the Alabama Insurance Code if you sign this form or provide inaccurate information.

Statement of Purchaser:

☐ I **REFUSE** to provide this information at this time.

☐ I have chosen to provide LIMITED information at this time.

_____

Customer Signature

_____

Date

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-137-AC **Appendix C Consumer Decision To Purchase An Annuity Not Based On A Recommendation.**

APPENDIX C

[Effective 1/1/2022)

Consumer Decision to Purchase an Annuity

NOT Based on a Recommendation

Do Not Sign This Form Unless You Have Read and Understand It.

Why are you being given this form? You are buying a financial product - an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company has the responsibility to learn about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you know that you're buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or company did not recommend that I buy it. If I buy it **without** a **recommendation**, I understand I may lose protections under the Alabama Insurance Code.

_____

Customer Signature

_____

Date

_____

Agent (Producer) Signature

_____

Date

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17; 27-12-1, et seq.
History: **New Rule:** June 10, 2021; effective January 1, 2022. Filed with LRS June 10, 2021. Rule is not subject to the Alabama Administrative Procedure Act.