

COMPLIANCE & LEGAL SECTIONS ANNUAL MEETING 2019

JULY 15-17

FORT LAUDERDALE MARRIOTT HARBOR BEACH RESORT & SPA

FORT LAUDERDALE, FL

ACLI
Financial Security... for Life.



Practical Implications: New York Regulation 187

Speakers

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Agenda

- Regulation 187 scope reminders
- Survey approach and results
- Additional insight– panel discussion

Reference Materials: Appendix A

Links to: 1.) NY Regulation 187; 2.) NY DFS's Procedural Filing Guidance [s. 224.4(m), s. 224.6(h)]; 3.) ACLI Issue Status Chart on State Fiduciary Issues; and 4.) NAIC's Annuity Suitability (A) Working Group web page and a list of upcoming calls/ meetings.

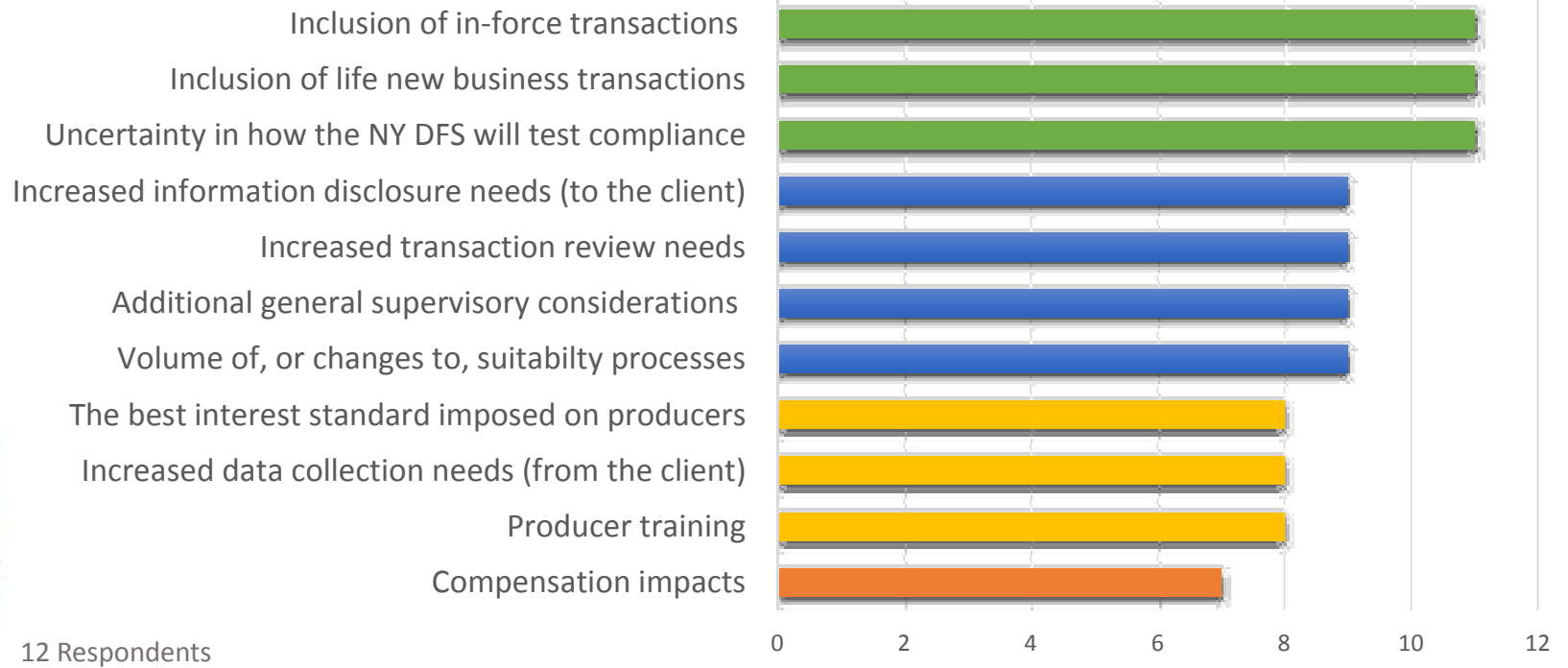
Regulation 187 Scope Reminders

Scope Reminders:

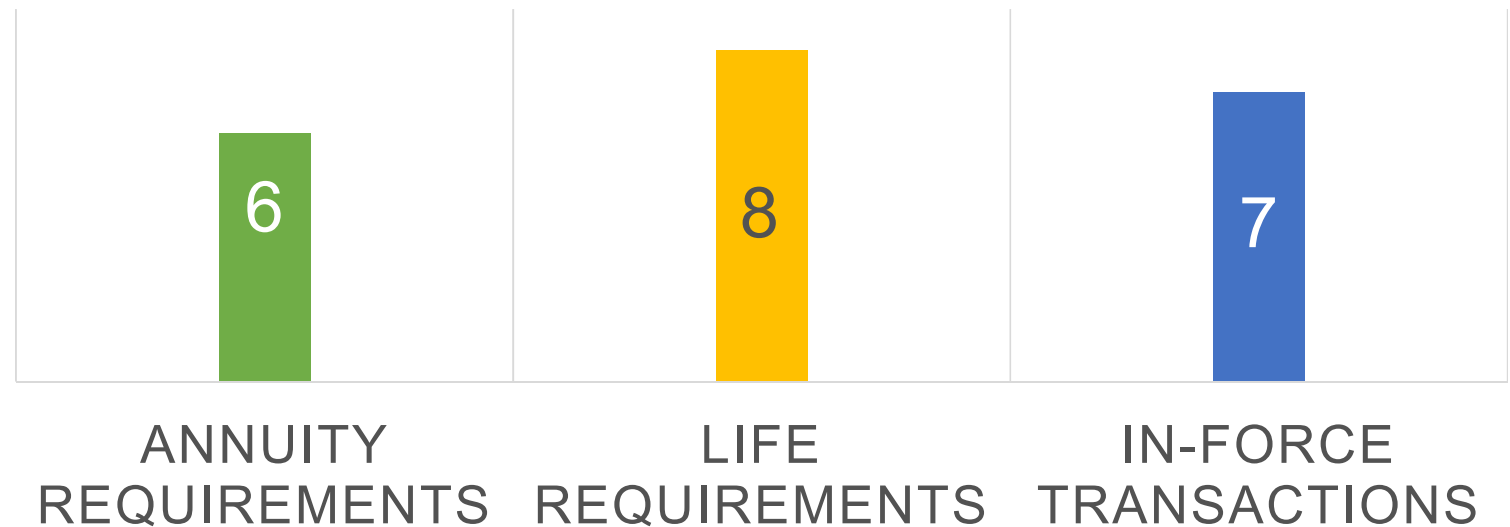
- Annuities: 8/1/19; life insurance: 2/1/20
- New business and certain in-force transactions
- Best Interest standard (of producers)
- New/revised consumer disclosures
- New suitability data collection requirements and considerations
- Training (product & Regulation 187)
- Supervisory needs, including suitability reviews
- Compensation considerations

Survey Approach and Results

Survey Says: *Top Challenges*



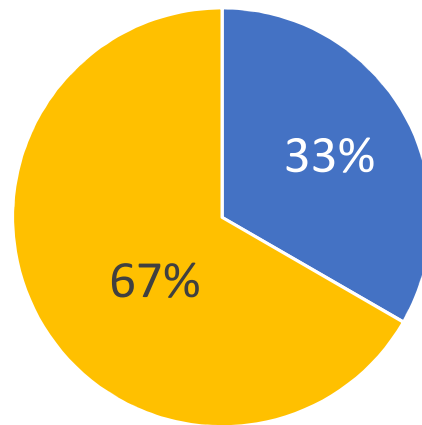
Survey Says: *Magnitude of Difficulty to Comply*



12, 10 & 11 Respondents

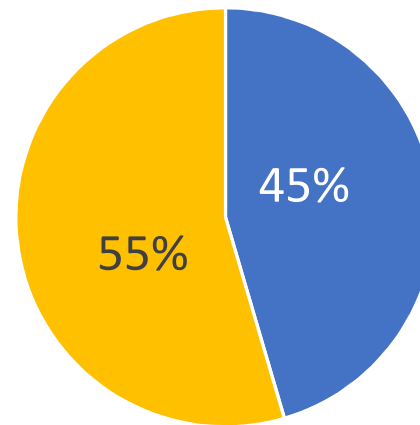
Survey Says: *Use of Existing or New Disclosures*

Annuity Product Disclosures



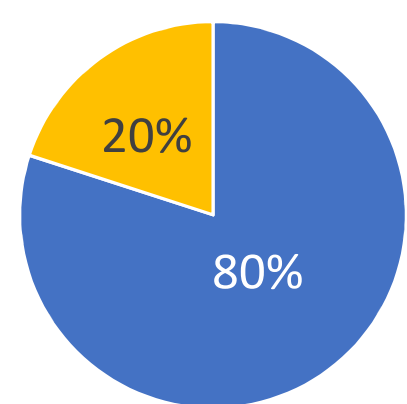
■ New ■ Existing

Life Product Disclosures



■ New ■ Existing

Life Suitability Data Collection



■ New ■ Existing

12, 11 & 10 Respondents

Survey Says: *Regulation 187 Training Approach*

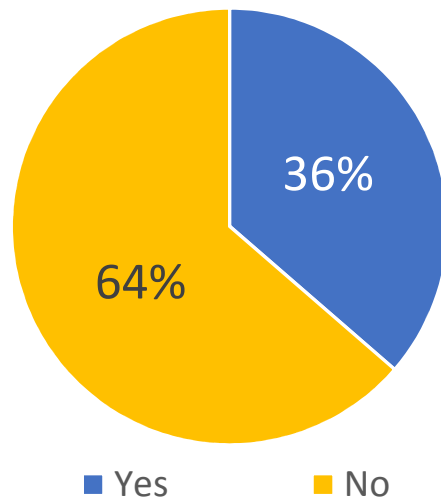
Regulation 187 Training	Monitoring (inhouse vs. delegation)
Inhouse initially, vendor by 2/1.	Inhouse.
Rely on a vendor module/CBT.	Inhouse.
Rely on a vendor module/CBT.	Inhouse.
Rely on a vendor module/CBT.	
Rely on a vendor module/CBT & any training firms may have created.	Hoping to delegate to a third party.
Rely on a vendor module/CBT.	Inhouse.
Rely on a vendor module/CBT.	Inhouse.
Hybrid. Some company created, some vendor support.	Hybrid; (delegated only to some 3rd parties).
Rely on a vendor module/CBT.	Inhouse.
Inhouse developed training.	Inhouse.
Rely on a vendor module/CBT.	

Survey Says: *Product Training Approach*

Regulation 187 Training	Monitoring (inhouse vs. delegation)
Annuity already in place. Life to be created. Hybrid: inhouse and vendor.	Inhouse.
Annuity already in place. Life solution TBD.	
Vendor to deliver the training.	Inhouse.
Plan to create internally.	
Plan to create internally.	Plan to delegate to a third party.
Delivered through a vendor for annuities now, life later. Will have some situations where there is manual assignment and tracking.	
Plan to create internally.	Inhouse.
Delivered through a vendor.	Hybrid; (delegated to some 3rd parties).
Will enhance existing product training to add suitability and BI content.	Inhouse.
N/A– Only 'in-force' transaction (no new business).	
Will work with distributors; will accept vendor or third party training.	

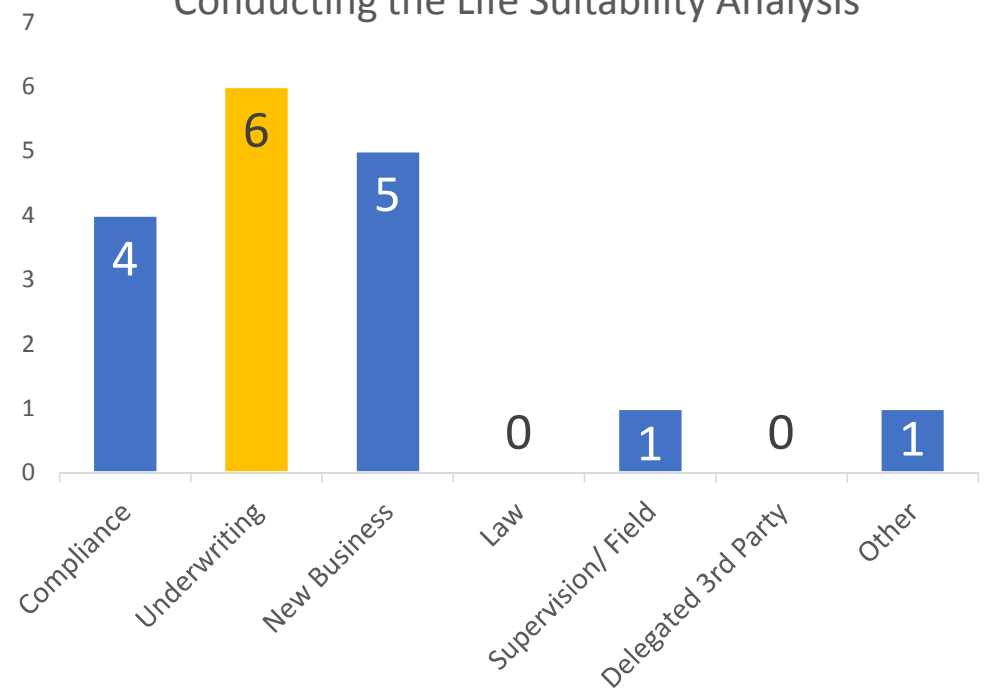
Survey Says: *Suitability Processes*

Certification: Contractual Sales Transactions



11 & 8 Respondents

Conducting the Life Suitability Analysis



Survey Says: *Plans for Delegation*

Delegation of Suitability Review or Supervisory Activities

No.

No on the life side; yes on the annuity side.

Yes, will delegate suitability to broker/dealers.

No.

Plan to delegate the suitability reviews to those firms that currently conduct their own under FINRA rules. Fixed & variable annuities are delegated. Life product responsibility TBD.

Plan to delegate, but it is "all or nothing." The third party must perform both the suitability review and the best interest supervision activities. Insurer will have 3rd party oversight.

At this time, no delegation is planned.

We currently only sell fixed products in NY. We have delegated suitability review and supervisory responsibilities to our broker dealer distribution partners for suitability review and general supervision. One distribution partner may also deliver training.

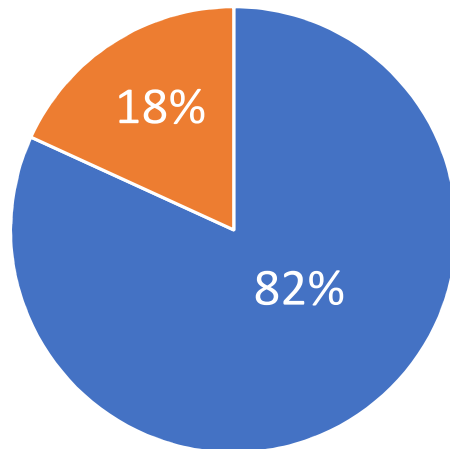
Not at this time.

No.

Yes - BDs and banks with whom we have a selling agreement. Only offer fixed annuity products currently. Will allow suitability reviews, training, general supervision, etc.

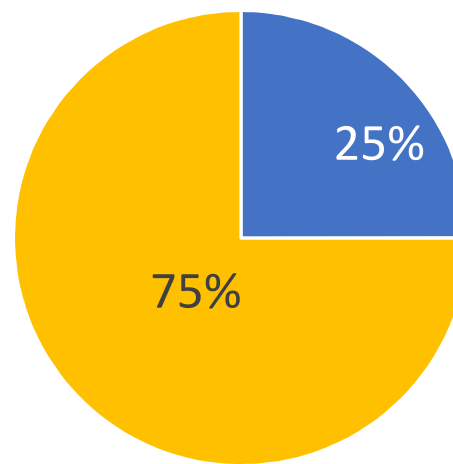
Survey Says: *Coordination with Regulation 60*

Still Allow 1 or 2
Step Process?



■ Yes ■ No

Require Additional
Disclosures?



■ Yes ■ No

11 & 8 Respondents

Additional Insight: Panel Discussion

Regulation 60 Impacts

NY Regulation 187 vs. NY Regulation 60 Timing Requirements:

New York Regulation 187 defines what is required in order for the producer to act in the 'best interest' of the consumer. One element involves ensuring the consumer has been informed of the various features of the policy and the potential consequences of the sales transaction (both favorable and unfavorable) at the time a recommendation is made.

New York Regulation 60 allows for a one-step process and allows insurers to deliver disclosures not later than contract delivery.

Training Considerations

Currently sold vs. in-force/ legacy product training.

Reasonable Summary Format

Section 224.4(f)(1) requires:

A producer, or an insurer where no producer is involved, shall at the time of a recommendation:

- (1) disclose to the consumer in a reasonable summary format all relevant suitability considerations and product information, both favorable and unfavorable, that provide the basis for any recommendations;
- (2) document the basis for any recommendation made, subject to subdivisions (a) and (b) of this section and the facts and analysis to support that recommendation;

Use of Certifications

With regard to recommended sales transactions that result from the exercise of a contractual right in a policy, an insurer may rely on a producer's written 'certification' of compliance regarding the:

(b)(1)(i) the collection of a consumer's suitability information with respect to sales transactions involving the insurer's policies;

(b)(1)(ii) the documentation and disclosure of the basis for any recommendation with respect to sales transactions involving the insurer's policies;

Extraterritorial Impacts

New York Regulation 187 would appear to apply to recommendations made to New York clients. But, what does that mean?

Recommendations to purchase **new products**:

- What if the client is a New York resident but the recommendation occurs in another state?
- What if the client is not a New York resident but the recommendation takes place in New York?

Recommendations impacting **in-force products**:

- What if the client is a New York resident but the recommendation occurs in another state?
- What if the client is not a New York resident but the recommendation takes place in New York?

Questions?



Thank You!

Appendix A: Resources

New York Regulation 187 Resources:

- [Regulation 187](#)
- [The NY DFS Procedural Filing Guidance](#) [s. 224.4(m), s. 224.6(h)]

Other, Non-NY Resources:

- [ACLI Issue Status Chart: State Fiduciary Issues](#)
- NAIC [Annuity Suitability \(A\) Working Group](#) web page.

NAIC Annuity Suitability (A) Working Group meetings (*as of 06/27/19*):

- Tuesday, July 23rd, 12:00 EST (1.5 hours); teleconference.
- Monday, July 29th, 1:30 EST (1.5 hours); teleconference.
- Saturday, August 3rd, 9:00 EST (1.0 hours); meeting (NYC).