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SECRETARY OF COMMERCE

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COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

November 1, 2022

BULLETIN NO. 12-2022

TO: All LICENSED LIFE INSURERS & INSURANCE PRODUCERS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: ANNUITY SUITABILITY STANDARD FOR PRODUCERS

The Commissioner issues this Bulletin in response to an inquiry whether an insurance producer's "best interest" duties or obligations under Arkansas Rule 82, "Suitability in Annuity Transactions," (hereafter, "Rule 82") exceed any of the specifically delineated, rule-based requirements placed on producers in Section Six (6)(A) of the Rule, when the producer is making a recommendation in the sale of an annuity.

The Commissioner directs the licensees to Section(6)(A) of Rule 82 which provides:

> A. 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.* (Emphasis Added).

Following the above section, Rule 82 provides specific, compliance responsibilities or requirements on the producer in that Section matching each of the four (4) areas expressly mentioned in (6)(A): care, disclosure, conflict of interest and documentation. Each of these areas are placed in subsections (1) through (4) under Section (6). It is the Commissioner's interpretation therefore, in terms of an enforcement policy related to the duties of producers in selling annuities, that a producer's compliance with each of the four (4) subsections, is limited to a review of only those subsections, and this would result in a producer's compliance with the general standard or duty of acting in the best interest of the consumer. The Commissioner does not read or interpret into the Rule that a producer has additional duties in excess of, or beyond those four (4) requirements to satisfy a best interest standard, at least as that standard is applied to an insurance producer.

This Bulletin strictly addresses the specific parts of Rule 82 which constitute an insurance producer's "best interest" duty and does not otherwise remove other, additional regulatory obligations as set out in the Rule or "safe harbor" defenses availed to insurance producers.

Please direct any inquiries pertaining to this Bulletin to Mr. Booth Rand, General Counsel, Arkansas Insurance Department (501) 371-2820.

ALAN MCCLAIN
ARKANSAS INSURANCE COMMISSIONER

11/1/2022
DATE