

NOTICE OF  
PROPOSED RULE AMENDMENT

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Division of Administrative Rules.

Agency Information

1. Agency: Insurance - Administration  
 Room no.: 3110  
 Building: STATE OFFICE BLDG  
 Street address 1: 450 N MAIN ST  
 Street address 2:  
 City, state, zip: SALT LAKE CITY UT 84114-1201  
 Mailing address 1: PO BOX 146901  
 Mailing address 2:  
 City, state, zip: SALT LAKE CITY UT 84114-6901

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Jilene Whitby	801-538-3803	801-538-3829	jwhitby@utah.gov

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Information

DAR file no: 35699 Date filed: 01/19/2012 03:33 PM  
 State Admin Rule Filing Key: 152097  
 Utah Admin. Code ref. (R no.): R 590 - 230 -  
 Changed to Admin. Code ref. (R no.): - -

Title

2. Title of rule or section (catchline):  
 Suitability in Annuity Transactions.

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:  
 The National Association of Insurance Commissioners updated their model on Annuity Suitability Transaction. The changes increases consumer protection which is one of our goals.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.  
 No

Rule Summary

6. Summary of the rule or change:  
 Section 2, the Purpose section adds the requirement for insurers to establish a system to supervise recommendations. Section 3, the Scope section, broadens the scope of the rule to include "replaced" policies. Section 4, Definitions, adds

new definitions for FINRA, Producer, Recommendation, Replacement, and Suitability Information. Section 5, Duties of Insurers and of Producers has been completely rewritten. The changes are more specific as to what one assesses regarding suitability of an annuity for a consumer. The new Section 6 has been added, namely, Producer training as, "Producer Training," which sets standards that must be met prior to a producer selling annuity products. Section 7, Compliance Mitigation and Penalties, which makes the insurer responsible for the actions of their producers. It also allows penalties to be reduced or eliminated if the insurer takes prompt corrective action or it is apparent the violation is not part of a pattern or practice. Section 8, Records, The language removed the terms "general agents" and "independent agencies" because they are now included in the term "Producers." Section 9, Enforcement Date, extends the time to enforce the changes to the rule from 45 to 60 days after it goes into effect.

#### Aggregate Cost Information

##### 7. Aggregate anticipated cost or savings to:

###### A) State budget:

Affected: No

No required filings thus and no increase in workload. no increase in our supervision of the insurance company

###### B) Local government:

Affected: No

This rule and the changes to it will have no fiscal impact on local governments since it deals with the relationship between the department and its life and annuity licensees and the relationship between them and their consumers.

###### C) Small businesses:

Affected: No

("small business" means a business employing fewer than 50 persons)

This rule requires insurers to train producers regarding their annuity products. It will not have a fiscal impact on the the agency, which would be the small business.

###### D) Persons other than small businesses, businesses, or local government entities:

Affected: Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

Requires insurers to establish a system to review the recommendations to purchase an annuity. Insurers will need to train producers on their annuity products. Since 14 states have already adopted this model, and many insurance companies sell in many states, many insurers may already be in compliance with these new standards. The life and annuity industry involved in the writing of this model have already signed off on this model. Producers will have to spend a small amount of time, probably 2-4 hours, away from sales to be trained by the insurer. The training should make the producer a more knowledgeable and effective salesperson. The more information a consumer receives may help them make a better decision of what is best for them.

#### Compliance Cost Information

##### 8. Compliance costs for affected persons:

Requires insurers to establish a system to review the recommendations to purchase an annuity. Insurers will need to train producers on their annuity products. Since 14 states have already adopted this model, and many insurance companies sell in many states, many insurers may already be in compliance with these new standards. The life and annuity industry involved in the writing of this model have already signed off on this model. Producers will have to spend a small amount of time, probably 2-4 hours, away from sales to be trained by the insurer. The training should make the producer a more knowledgeable and effective salesperson. The more information a consumer receives may help them make a better decision of what is best for them.

#### Department Head Comments

##### 9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

There will be minimal fiscal impact on insurers, producers and agencies. The reason for these changes is to provide greater consumer protections and to offer more applicable information to the consumer.

##### B) Name and title of department head commenting on the fiscal impacts:

Neal T. Gooch, Insurance Commissioner

## Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.  
 State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :  
 31A-2-201(3)(a)

31A-22-425

## Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

	Official Title of Materials Incorporated (from title page):
	Publisher:
	Date Issued:
	Issue, or version:
	ISBN Number:
	ISSN Number:
	Cost of Incorporated Reference:
	Adds, updates, removes:

## Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) :

03/16/2012

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):      At (hh:mm AM/PM):      At (place):

03/07/2012

11:00 AM

State Office Bldg, Rm 3112, 450 N. State St, Salt Lake City, UT  
 84114

## Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 03/23/2012

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

## Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):  
 insurance annuity suitability

## File Information

15. Attach an RTF document containing the text of this rule change (filename):  
 There is a document associated with this rule filing.

## To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be

returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

**Agency Authorization**

Agency head or designee, and title:	Jilene Whitby Information Specialist	Date (mm/dd/yyyy): 01/19/2012
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