

NY DFS REGULATION 187 REFERENCE GUIDE

The New York State Department of Financial Services (NY DFS) released the final version of best-interest Regulation 187. Regulation 187 requires producers and insurers to implement a process that ensures they are acting in the consumer's best interest when recommending life insurance policies issued in New York. This regulation is effective as of February 1st, 2020. The following reference guide is intended to help producers walk through the requirements of this regulation.

OVERVIEW – KEY RESPONSIBILITIES FOR PRODUCERS

Training Requirements – Must be completed prior to submission of applications to any carriers

- Regulation training
 - Complete a financial service course for NY Regulation 187 Best Interests from a continuing education provider
 - Check with carriers to ensure specific provider is approved
- Product training
 - Complete appropriate product training course or review of fact sheets
 - Review specific carrier requirements to determine if training is proprietary or may be completed through a continuing education provider

Best Interest Recommendation and Suitability

- Best Interest Recommendation
 - Attached is a resource guide for producers to utilize with clients to help guide through making a recommendation. This guide is not required to be submitted to your BGA but should be retained for the producer's records as documentation for the recommendation made.
 - Document product comparisons (advantages/disadvantages) and non-guaranteed elements.
 - Document the basis for new recommendations, post issue recommendations, no recommendation, and/or any client decision made against producer's recommendation.
 - Producer should retain all sales documentation
- Suitability
 - Check with each specific carrier for required Client Information form
 - Form may be required prior to submission of application
 - Producer should retain all sales documentation

Provide to Clients

- Applicable disclosures
- Carrier product information
- Fee/Commission based disclosure (if applicable)
- Disclosure of product limitations (if applicable)
- NY Reg 194 compensation disclosure
- NY Reg 60 paperwork for Replacements (if applicable)

FAQs

- Is the NY Regulation 187 Best Interests training required prior to soliciting New York business?

Yes, beginning February 1, 2020 carriers will require the NY Regulation 187 Best Interests training to be taken prior to soliciting Life Insurance business in New York.

- Is the carrier product training required prior to soliciting New York Business?

Yes, carriers will require completion of product training courses prior to soliciting Life Insurance business in New York. Be sure to check with the specific carrier for approved vendors as each carrier's approved vendor list may vary.

- What determines whether a sales transaction is suitable?

Regulation 187 provides a number of factors that the producer must consider in determining whether a sales transaction is suitable, including age, income, financial situation, financial objectives, risk tolerance, and intended use of the policy, amongst others.

- What if a client refuses to provide some or all the data a producer may want?

A client may refuse to provide details regarding certain financial information. It is still the producer's responsibility to complete a carrier's client identification form as completely as possible.

- What if a policy is approved at a rate other than applied for?

If a client applies for a specific rate and is approved a rate which is other than applied for, the best interest and suitability process must start over.

- Are producers required to keep any specific client information?

It is highly recommended that a producer keeps documentation regarding all aspects of interactions with any client in which a recommendation is being made as the New York Department of Financial Services may conduct an audit as outlined within Regulation 187. A producer could ask their Brokerage General Agency for any resources that may help document the sales transaction process.

- Is there any impact to Replacements and the Regulation 60 process?

Replacement business in New York must be suitable and in the best interests of the client; it will still be subject to New York Replacement Regulation 60 and the specific carriers process.

- Are there other situations where Regulation 187 best interest and suitability is involved?

Yes, inforce transactions and other policy changes may be subject to the regulation. If the new transaction or change in policy (including features such as adding or exercising a rider) generates a new commission, Regulation 187 will apply. There may be other servicing aspects which fall under the regulation as well. Be sure to refer to the Regulation 187 section regarding Inforce Transactions for appropriate details.