

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF LIFE AND HEALTH

**Advertisement of Life Insurance and Annuities; Disclosure Requirements for Annuities
Directly Solicited to Consumers; and Suitability Requirements for Annuities Directly
Solicited to Consumers**

Adopted Amendments: N.J.A.C. 11:2-23.5 and 11:4-59.1

Adopted New Rules: N.J.A.C. 11:4-59A

Adopted Repeals: N.J.A.C. 11:4-59.5 and 59.6

Proposed: June 4, 2012 at 44 N.J.R. 1681(a).

Adopted: January 3, 2013 by Kenneth E. Kobylowski, Commissioner, Department of
Banking and Insurance.

Filed: January 4, 2013 as R.2013 d.014, **with technical changes** not requiring additional
public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:22A-26 et seq., 17B:25-34 et seq., and 17B:30-1 et
seq.

Effective Date: February 4, 2013.

Operative Date: August 4, 2013.

Expiration Date: January 6, 2018, N.J.A.C. 11:2;
September 28, 2018, N.J.A.C. 11:4.

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) timely received written comments from The American Council of Life Insurers and The National Association of Insurance and Financial Advisors-New Jersey.

COMMENT: The commenters supported the proposed new rules, amendments, and repeals in that they will conform New Jersey's rules governing advertisement, disclosure and suitability requirements for the sale of annuities with those established by the National Association of Insurance Commissioners (NAIC).

RESPONSE: The Department appreciates the support of its proposal.

COMMENT: One commenter expressed concern that the rules do not contain the delayed effective date of six months set forth in the NAIC model. The NAIC model provides that "the amendments to this regulation shall take effect six (6) months after the date the regulation is adopted or on [insert date], whichever is later." The rules as proposed at N.J.A.C. 11:4-59A.1(d) provide that the subchapter "shall apply to recommendations made on or after six months after the effective date of the subchapter." The commenter expressed concern that N.J.A.C. 11:4-59A.1(d) could be interpreted to apply only to annuity recommendations to consumers and not to the entire subchapter. The commenter was concerned that for all other provisions of the subchapter that do not involve a recommendation to a consumer, those sections would become effective immediately, including, but not limited to: insurer supervision; insurer standards for producer training; insurer training materials; sales made in compliance with FINRA; and

insurance producer training. The commenter stated that compliance with these provisions could take time, and that is why the model provided for a delayed six month effective date.

The commenter thus suggested that N.J.A.C. 11:4-15A.1(d) be deleted and a new rule be added at N.J.A.C. 11:4-59A.7 to provide a delayed effective date similar to that provided in the model.

RESPONSE: The Department agrees with the commenter. Indeed, the Department did not intend to apply the rule immediately, but intended to provide a delayed effective date for all of the subchapter's requirements for six months following the effective date of the rules. The subchapter in general applies to recommendations to purchase certain annuities. However, the Department agrees that N.J.A.C. 11:4-59A.1(d) as written could be construed more restrictively than intended. Accordingly, the Department is changing the rules upon adoption to revise N.J.A.C. 11:4-59A.1(d) to clarify that all of the requirements in the subchapter will become applicable six months after its effective date.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules, amendments, and repeals are not subject to any Federal requirements or standards.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

11:4-59A.1 Purpose and scope

(a) – (c) (No change from proposal.)

(d) ***[This]* *The requirements in this* subchapter shall apply ***[to recommendations made on or after six months after the effective date of the subchapter]* *August 4, 2013 and thereafter*.****

11:4-59A.4 Insurance producer training

(a) – (b) (No change from proposal.)

(c) Insurance producers who hold a life insurance line of authority on ***[the effective date of this subchapter]* *February 4, 2013*** and who desire to sell annuities shall complete the requirements of this section ***[within six months after the effective date of this subchapter]* *by August 4, 2013***. Individuals who obtain a life insurance line of authority on or after ***[the effective date of this subchapter]* *February 4, 2013*** may not engage in the sale of annuities until the annuity training course required under this section has been completed.

(d) – (k) (No change from proposal.)