

500 Agents, Brokers, Solicitors, and Consultants

503 Licensing Procedure for Limited Representatives for Fixed or Guaranteed Annuities  
[Formerly Regulation 35]

\* Section 1 was index.\*

2.0 Definitions.

- 2.1 The definitions below are summarized for convenience. For complete definitions see cited reference as applicable.

**“Agent of New York Stock Exchange Broker-Dealer”** In general, the representative of a broker-dealer, registered with the New York Stock Exchange, who is engaged in the business of transaction of securities for the account of others. The agent acts for and on behalf of the broker-dealer and not on his own account. [6 **Del.C.** §7302(a)(2)]

**“Agency or Firm License”** A license or certificate of authority issued to a corporation, firm, sole proprietorship, partnership or other business entity authorizing the conduct of insurance business in the firm's name. Such license is issued to the corporation or firm on the basis of the qualification of its specific members who are registered with the Department. The certificate of authority is valid only for those lines of insurance for which the registered member is qualified and licensed. The insurance transactions of the licensed firm may only be conducted by the licensed registered members. (Regulation 201 Formerly Insurance Regulation No. 16)

**“Annuity”** An insurance contract under which obligations are assumed as to periodic payments for specific term or terms, or where the making or continuance of all or some such payments, or the amount of such payments, is dependent upon continuance of human life. (18 **Del.C.** §2902)

**“Fixed or Guaranteed Annuity”** An insurance contract which provides for an annuity payment of a stipulated amount commencing either immediately or at some future date. The amount of the insurer's payments are guaranteed and cannot be changed according to specific investment experience.

**“Insurer's Appointment”** Written authorization by an insurer conveying to specific individuals and firms to act as agent and/or limited representative for that insurer in the solicitation of insurance contracts. Such appointments must be filed with and approved by the Department. (18 **Del.C.** §1714)

**“Limited Representatives”** A certificate of authority issued to individuals and/or agencies conveying authority for the transaction of insurance business. The authority of the limited representative is limited to the specific lines of insurance described on the certificate. The limited representative certificate is issued for those lines of insurance which the Commissioner deems essential for the transaction of insurance business in Delaware and which do not require the level of qualification required for a full agent's or broker's license. Such certificates are normally issued where insurance is a peripheral activity associated with the licensee's primary business. (18 **Del.C.** §1706)

3.0 License Qualification.

- 3.1 Each applicant for license as a limited representative for the line of fixed or guaranteed annuity, whether as an individual or as a registered member of a licensed firm, shall meet the requirements of 18 **Del.C.** §1720 except that:
- 3.1.1 the applicant shall not be required to satisfy 18 **Del.C.** §1720(a)(3) (principal occupation, insurance, fifty percent of income from insurance).
  - 3.1.2 18 **Del.C.** §1720(a)(4) (written examination) shall not apply.
- 3.2 Each applicant shall have demonstrated his qualification for license by successfully completing the National Association of Security Dealers (NASD) examination and shall include as a part of the application evidence of such successful completion. No license shall be issued unless this criterion is fulfilled.

**4.0 License Application.**

- 4.1 License application for a certificate of authority as a limited representative for fixed or guaranteed annuity may be submitted for a firm, registered firm member, or an individual. The principal determinate for the type of license requested will be the manner in which business is written and commissions paid. Regulation 201 (Formerly Insurance Regulation No. 16) provides a more comprehensive definition of the requirement. In general, if the firm is the producer of record and the recipient of commissions, then the firm or agency should be licensed and those who conduct insurance transactions on behalf of the firm should be licensed as registered members of the firm.
- 4.2 Firm or agency application: Procedure is described in Delaware Insurance Department Bulletin 75-5. Submit insurance application Form 2B describing the firm, Form 2A describing the member(s) who will conduct business on behalf of the firm and insurer's appointment Form 1A completed by the insurer and fees as required in 18 **Del.C.** §1701.

Note that a firm license may not be issued or continued unless there is at least one qualified member registered as to the firm. The insurer sponsoring the initial license is required to provide a statement that a background investigation has been conducted and the applicant meets the requirements for license. [See 18 **Del.C.** §1720(a)(2)] with insurer's appointment Form 1A and fee as described in 18 **Del.C.** §701. When adding a new registered member to an existing agency or firm license, complete Form 2C. As noted above, the sponsoring insurer is required to provide the statement of background investigation on each initial applicant for license.

**5.0 Fee (18 Del.C. §701)****5.1 Currently the fees are:**

- 5.1.1 Firm, no fee.
- 5.1.2 Individuals and registered firm members, \$13.00 for initial license with authority to represent one insurer; \$3.00 for each additional insurer.
- 5.1.3 Annual renewal fee per individual and each registered member, due March 1 annually, as prescribed in 18 **Del.C.** §701; currently \$10.00.
- 5.1.3.1 Nonresidents: Fees for firms and individuals are subject to the retaliatory provisions and are based upon the fee the applicant's state of residence would charge a Delaware applicant for a similar license. Minimum license and renewal fees are as shown above.

**6.0 Responsibility of Licensee; Penalties.**

- 6.1 Those licensed as limited representatives for fixed and guaranteed annuity shall have the same obligations and duties as are imposed on other licensees by statute and regulation. These include, but are not limited to:
- 6.1.1 the requirement to maintain records of insurance transactions. [18 **Del.C.** §1727(b)]
- 6.1.2 the representative's obligation to his client. (18 **Del.C.** §1717)
- 6.1.3 restrictions on commissions. (18 **Del.C.** §1730)
- 6.1.4 controlled business. (18 **Del.C.** §1729)
- 6.2 The sanctions described by 18 **Del.C.** §§1731 and 1732 will be applied as appropriate.
- 6.3 Brokers-dealers sponsoring an applicant for license as a limited representative for fixed or guaranteed annuity, and each such limited representative, shall have the obligation to report to the Insurance Commissioner immediately upon receipt of knowledge of the following:
- 6.3.1 imposition of any disciplinary sanction imposed upon him by the New York Stock Exchange.
- 6.3.2 any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

**7.0 Severability.**

- 7.1 If any provision or clause of this Regulation or the application hereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the Regulation which can be given effect without the invalid provision or application and to this end the provisions of this Regulation are declared to be severable.

**8.0 Effective Date.**

- 8.1 This Regulation shall become effective on July 10, 1981.