

Lincoln Individual Life and Annuities

NY DFS Regulation 187 Overview

Information for those conducting business in New York

Overview

The New York State Department of Financial Services (NY DFS) has released the final version of best-interest Regulation 187 (NY 187). The final regulation, now called “Suitability and Best Interests in Life Insurance and Annuity Transactions,” will require producers and insurers to implement a process that ensures they’re acting in the consumer’s best interest when recommending an annuity or life insurance policy issued in New York. The new regulations take effect on:

- August 1, 2019, for annuity contracts
- February 1, 2020, for life insurance policies

What we’re doing

At Lincoln Life & Annuity Company of New York (Lincoln), we’re working closely with industry experts and groups to ensure we are compliant with the regulation and that we are supporting your needs. For more details, see the “Questions” sections below.

How this affects you

You have a duty to recommend products in the consumer’s best interest as described below. In addition, you will have to complete a NY Reg 187 Best Interests training course in order to submit New York business to Lincoln after the regulation goes into effect. This training is now available from industry vendors, allowing producers time to complete the training prior to the effective date of the regulation.

General Questions

What are some key points of NY Regulation 187?

- **At a high level, the regulation:**

Takes into consideration that annuities and life insurance can be in a consumer’s best interest and can appropriately address a consumer’s financial and insurance needs.

Does not reflect a bias against commissions (both commissions and fee-based compensation will be permitted).

Requires additional disclosures designed to match the consumer with the right product and requires a consideration of product features and benefits in addition to costs.

Does not contain private right of action (enforcement will be by NY regulators).

- **Best interest standard clarified.** Only the consumer’s best interest, and not the financial interests of the producer or insurer, can influence a recommendation to purchase an annuity or life insurance policy. The recommendation must address the consumer’s insurance needs and financial objectives at the time of the transaction.
- **In-force transactions.** Under NY 187, recommendations including in-force transactions must be made in the best interest of the consumer. But a suitability/best interest review is only required for in-force transactions if they involve new sales compensation. New sales compensation does not include compensation provided to a producer when, after the initial premium or deposit under a policy, the consumer pays subsequent premiums or deposits pursuant to the policy or contract.
- **Enhanced documentation required.** There are enhanced disclosure requirements at the time of sale regarding suitability and product information, including product features, benefits and costs; and additional documentation requirements regarding the basis for any recommendation made subject to Regulation 187.
- **Third-party supervision permitted.** The final rule permits insurers to contract with third parties – such as broker-dealer distributors – to establish and maintain a supervisory system (i.e., conduct suitability/best interest reviews). Lincoln will continue to delegate to broker-dealer partners.
- **Insurers to oversee training and supervision.** NY 187 requires significant insurer oversight obligations regarding training and supervision as well as necessary corrective action where appropriate.

What’s next?

We will continue to update you on any future changes to our process or procedures that may affect your firm or agency, and/or your procedures. Internally, Lincoln currently has six different workstreams analyzing the potential impact of Reg 187:

- Communication and training
- Compensation and selling agreements
- Compliance
- Post-issue transactions (in-force business)
- Pre-issue transactions (new business)
- Overall organizational readiness

Will there be revisions to the selling group agreement?

Lincoln is not changing the selling group agreements but has sent out letters confirming your responsibilities under the selling group agreements and the Market Conduct Manual. The Market Conduct Manual is being updated to provide producers with more information on NY 187 and other suitability expectations.

Questions about NY Reg 187 Best Interests Training

How will producer training change?

You must complete a NY Reg 187 Best Interests training course to submit New York business to Lincoln after the regulation goes into effect. This training is available now. Failure to comply with this training requirement will delay the processing of Lincoln new business.

We do not plan to adjust the current Lincoln-specific annuity product training at this time.

What happens if I don't complete training prior to the effective date of the regulation and attempt to submit or service New York-issued contracts/policies with Lincoln?

Producers must complete a NY Reg 187 Best Interests training course to submit New York business or service existing New York-issued policies with Lincoln after the regulation goes into effect.

- For Annuity, this is any business or transaction submitted effective August 1, 2019, and
- For Life, this is any business or transaction submitted effective February 1, 2020.

If you have not completed a NY Reg 187 Best Interests training course prior to submitting or servicing existing New York-issued contracts/policies with Lincoln after these respective dates, the business will be delayed.

How do I notify Lincoln that I have completed the course?

Follow your existing process in notifying Lincoln on the completion of the applicable training.

How do I confirm that my training has been received by Lincoln?

Producers should email LicensingStatus@LFG.com for confirmation prior to submitting business.

Are producers required to take the training every year?

Lincoln requires the NY Reg 187 Best Interests training be taken prior to submitting New York business. Once this requirement is met, Lincoln does not require retraining. However, check with your back office for your firm's specific Best Interests training requirements.

Questions about NY Reg 187 Best Interests Training, (cont'd)

How do I access the NY Reg 187 Best Interests training course?

There are several training options available. Lincoln will accept a combined Life and Annuity course provided by insurance education vendors. Please note, however, that certain vendors may not offer a combined course and may only offer separate courses.

Contact your back office for approved vendors. Several examples of how the NY Reg 187 Best Interests training course may appear are shown below:

Vendor	Course Title	General Access Information
RegEd	<ul style="list-style-type: none"> • NY Reg 187: Suitability and Best Interest of Clients in Life Insurance and Annuity Transactions (484_NY, a 4 to 5 Hour CE course) <u>or</u> • Best Interest of Clients in Life Insurance or Annuity Transactions: NY Reg 187-1 Hour Course (485_NY) 	From the annuity training platform, search for courses approved for CE credit in the state of New York
LIMRA	Overview of State Best Interest Requirements	From the Home page of the Annuity Training and Certification, Select My Reg 187 Training
Kaplan	<ul style="list-style-type: none"> • New York Suitability and Best Interests in Annuity Transactions (<u>Annuity</u> only), <u>or</u> • New York Suitability and Best Interests in Life Insurance and Annuity Transactions (<u>combination</u> course), <u>or</u> • New York Suitability and Best Interests in Life Insurance Transactions (<u>Life</u> only) <p>Versions of the courses shown above are also available for producers holding a New York Non-Resident Insurance License.</p>	Select Insurance CE, then NY
QuestCE	<ul style="list-style-type: none"> • (NYCS-261350) New York's Best Interest Amendment to Regulation 187 (BI CE), <u>or</u> • (BI-New York) New York's Best Interest Amendment to Regulation 187 (BI) 	<ul style="list-style-type: none"> • State-specific NAIC Annuity CE • Choose: <ul style="list-style-type: none"> – State Training + CE Credit, <u>or</u> – State Training Only
SuccessCE	N.Y. Regulation 187 and NAIC Suitability	<ul style="list-style-type: none"> • Select License Type • Scroll down and find the course

This chart provides general information only; check with your back office or the vendor for specific instructions.

Questions about Annuities

How will wholesaler training change for annuities?

NY 187 includes requirements for anyone materially participating in a recommendation, and Lincoln wholesalers do not materially participate in any recommendations. However, we are training our wholesalers on any changes to Lincoln forms, or any other changes made as a result of the regulation, so they can best support you.

What is changing with suitability delegation?

Lincoln is not changing delegation of suitability review. Pursuant to the regulations, we do plan to increase the number of audits to meet the additional supervision requirements.

Fixed Annuities: Will there be suitability form changes for fixed annuities? Will the suitability process change?

Yes. A New York version of Lincoln's fixed annuity suitability form is now available. It includes additional considerations as required by NY 187. The process change includes a review of best interest and suitability for subsequent deposits coming from qualified transfers and 1035 exchanges.

Fixed Annuities: Will there be any change to how Lincoln processes fixed annuity business in New York?

Yes, when Lincoln conducts the fixed annuity suitability review. Lincoln has developed a new form (specific to New York), the "Fixed Annuity Suitability and Best Interest Form and Summary Customer Disclosure-NY" that will need to be completed as part of the application process. This form is available in NY sales kits, forms tools and on order entry platforms.

Important – Deadline for using updated form:

New business will require the new form as of August 1, 2019, based on the app/transfer paperwork received date.

- If the paperwork is received prior to August 1, 2019, Lincoln will accept either the NY-specific form or the current suitability form.
- If the paperwork is received on or after August 1, 2019, Lincoln will only accept the NY-specific Fixed Annuity Suitability and Best Interest Form.

New requirement for subsequent premiums added via a transfer or exchange: The New York-specific Fixed Annuity Suitability and Best Interest Form will be required for subsequent premiums added to a New York-issued fixed annuity contract for qualified transfers and 1035 exchanges accompanied by the standard ACORD form effective August 1, 2019.

Questions about Life Insurance

How will this impact the life insurance business?

We are currently analyzing the potential impacts Reg 187 may have to the Lincoln life insurance process and procedures. Below are some key impacts to note:

- Possible life insurance product training
- Industry course requirement
- New suitability/best interest workflow

More information to come regarding the impact to the Life operations and procedures.

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Policies/contracts sold in New York are issued by Lincoln Life & Annuity Company of New York, Syracuse, NY (Lincoln). **The contractual obligations are subject to the claims-paying ability of Lincoln Life & Annuity Company of New York.**

Contract may be referred to as “certificate” in certain states (certificate may not be available in all states). The certificate is a group annuity certificate issued under a group annuity contract issued by The Lincoln National Life Insurance Company to a group annuity trust.