

# Prudential Financial Professional Annuity Suitability and Best Interest Guide



Prudential and its affiliated insurance companies (“Prudential” or “we”) have an obligation to ensure every sales recommendation made is in the best interest of the consumer. That includes all recommendations to purchase or replace/exchange an annuity contract. To meet this obligation, we require our distribution partners (“you” or “your”) to comply with the National Association of Insurance Commissioners (“NAIC”) Suitability in Annuity Transaction Model Regulation (the “Model Regulation”), as adopted in each state. For annuity products issued for delivery in New York, you must also comply with New York Insurance Regulation 187, at 11 NYCRR 224.0 et seq., as amended. The purpose of this Guide is to provide important information to assist financial professionals (FPs) in making suitable recommendations of Prudential fixed and/or fixed indexed annuities to clients. It also outlines specific Prudential rules, guidelines, and requirements. All Prudential annuities that are securities are also subject to federal securities laws and FINRA rules and may only be recommended and sold by registered representatives of broker-dealers that have agreed, via a selling agreement, to supervise and conduct the best interest review of their FPs’ recommendations in accordance with such laws and rules.

The purchase of an annuity is a very important decision, and with each client comes a unique set of financial needs, objectives, and circumstances. Clients rely on your knowledge and expertise to help them identify and select the annuity solution that best meets their insurance needs and financial objectives.

## NAIC Suitability in Annuity Transactions Model Regulation

The Model Regulation sets forth standards and requirements for suitable annuity transactions. It requires insurers to establish a system to supervise recommendations by financial professionals that appropriately address the insurance needs and financial objectives of clients. An FP has acted in the consumer’s best interest only when he or she has satisfied four distinct obligations (i.e., Care, Disclosure, Conflict of Interest and Compliance).

The purpose of the Model Regulation is:

- establish a regulatory framework to hold insurers and FPs accountable for ensuring the suitability of annuity transactions;
- require FPs to complete general annuity training and product specific training for all products they are selling; and
- where appropriate, allows recommendations made by FPs that are consistent with comparable standards (such as the Investment Advisers Act or ERISA) to satisfy the Model Regulation

## What is a Suitability and Best Interest Standard?

Suitability and Best Interest refers to the determination of whether an annuity recommendation is appropriate given the client’s unique circumstances and meets the client’s insurance needs and financial objectives at the time of the recommendation. It also requires the financial professional not to place their own interests ahead of the consumer’s interest and to minimize and disclose any conflicts of interest that may arise as part of the recommendation. This standard is meant to ensure that when your client purchases an annuity, it is for the right reasons. The client should have a complete understanding of the features of the annuity, including the benefits as well as the conditions, limitations, and restrictions. Suitability and Best Interest requires a professional analysis and judgment, based upon a client’s unique circumstances and products available to the financial professional at the time of the recommendation. The Model Regulation requires financial professionals to inform clients about the features and costs of the annuity they recommend in order for a client to make an informed decision.

## What Client Information Should Be Assessed When Determining Suitability and Best Interest?

When purchasing an annuity, a client should use funds intended for long-term growth and income and should not use funds that he/she needs for imminent needs or large purchases. All clients should first establish an emergency fund of three to six months’ living expenses before considering an annuity. Life events such as a change in job status, a need to care for others, and health status should be identified and considered prior to making a recommendation to purchase an annuity.

When assessing a client's needs, consider the following:

- Age
- Current and expected annual income
- Current and expected financial situation and needs including the resources that will fund the annuity
- Financial experience
- Financial objectives
- Insurance needs
- Intended use of the annuity
- Financial time horizon
- Investment experience
- Existing assets, including investment and life insurance holdings
- Current and expected liquidity needs
- Liquid net worth
- Risk tolerance, including willingness to accept non-guaranteed elements in the annuity
- Debt obligations
- Current and expected tax status
- Plans for retirement

### **Financial Professional Responsibilities**

Every recommendation that is made must be suitable for the client and in the client's best interest. A decision to recommend an annuity should be based on an analysis of all information gathered from the client. The information obtained should provide a full and accurate picture of your client's individual needs, financial status, and financial objectives. Annuities can be a valuable component of a client's retirement portfolio, but they may not be right for everyone. A client should not have too much of their net worth in an annuity as a result of the proposed purchase, taking into consideration all annuities owned. A reasonable guideline is that no more than 50% of the client's net worth should be invested in one or more annuity contracts.

In recommending the purchase of an annuity, your responsibilities include:

- Gathering sufficient, accurate information from the client regarding their current financial holdings, income, risk tolerance, time horizon, tax status, and needs and objectives.
- Thoroughly evaluating and discussing the circumstances of the transaction with the client to help them make a decision that is in line with their financial needs and objectives.
- Providing the client with relevant and appropriate information so that the client can make an informed decision prior to purchase.
- Ensuring replacement questions are answered and, if applicable, disclosure requirements are satisfied to ensure any replacement is appropriately identified on the application, suitability form, or on any other required form.
- If applicable, ensuring that the required replacement notice is given to the client, and signed and dated by the client on the same date as the application for coverage.
- Documenting all conversations with the client and making notes about why you recommend that particular annuity. Keep all records and documentation in each client's file in case there are future questions. A reasonable guideline is the life of the contract plus five years.
- Retaining all suitability information in client files for as long as the contract remains in force.
- **Provide point of sale disclosure (Appendix A or equivalent) disclosing any conflicts of interest, how you are paid, and available products you can offer. \*\*NOTE\*\* For registered reps, if your BD is performing Best Interest review for fixed annuities, Form CRS/Reg BI disclosure must be provided to the customer.**
- Making sure to comply with all applicable suitability/best interest and replacement laws and regulations.

## Training Requirements

All financial professionals are required to complete:

- A one-time four-hour General Annuity Training course on suitability (called “General Annuity Training”) in those states that have adopted the Model Regulation. Please consult each state’s department of insurance website to obtain information on how to complete this training.
- Prudential product specific training in all states prior to soliciting an application for the applicable annuity product.

## Replacements

The term “replacement” means as a transaction in which a new annuity contract is to be purchased, and it is known or should be known to the proposing financial professional, or to the proposing insurer if there is no financial professional, that by reason of the transaction, an existing insurance policy or annuity contract has been or is to be:

- lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;
- converted to reduce paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of non-forfeiture benefits or other policy values;
- amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
- reissued with any reduction in cash value; or
- used in a financed purchase.

Replacements are further defined as the purchase of a new annuity involving the actual or intended use of monies obtained by the withdrawal or surrender of, or by borrowing from values of, an existing annuity or life insurance policy to pay all or part of any premium due on the new policy.

It is very important to carefully consider the suitability of any proposed replacement and ensure your client understands the advantages, disadvantages, and potential impact of a replacement. Specific factors to consider include guaranteed interest rates, loss of existing benefits, potential surrender charges on the existing annuity contract or life insurance policy, and the new surrender charge period of the replacing annuity contract.

The replacement should provide a substantial economic benefit to your client before you recommend the change. Below are some items to consider before recommending a replacement sale:

- How do the benefits of the existing product compare with those of the new annuity you are recommending, including rates, surrender charge period and sales loads, riders, etc.?
- Will the new annuity better meet your client’s insurance needs and financial objectives?
- Will your client lose any money in the existing annuity contract if it is replaced by the new annuity?
- Is there any outstanding loan on the existing policy? If yes, how will the loan be repaid prior to the replacement?
- Is the client currently taking required minimum distributions (RMDs) and/or other qualified distributions from the existing annuity? If so, how will these distributions be handled with the new policy?
- Has your client replaced an annuity contract within the past 36 months?
- In the case of a deferred to immediate annuity replacement, was an annuitization quote run on the existing deferred annuity contract to ensure the immediate annuity provides a material financial benefit to the client?

## Potential Indicators of Financial Exploitation

Various suspicious activities (“red flags”) may help you recognize possible financial exploitation of clients who are seniors or other vulnerable persons. The mere presence of a red flag by itself does not necessarily indicate financial exploitation. The red flags identified below are warning signs that may warrant additional scrutiny.

Although the red flags set forth below refer to “seniors”, these indicators also apply to “vulnerable persons”. Vulnerable persons are individuals who are unable to protect themselves from abuse, neglect, or exploitation by others because of a physical or mental impairment.

Red flags of possible financial exploitation include the following activities, whether by the senior or by an individual acting on behalf of the senior:

- Engaging in activity that is not consistent with expected behavior or past behavior. For example, taking several withdrawals within a brief time period in amounts that are not consistent with any prior withdrawal activity or that show a disregard for applicable surrender charges.
- Requesting a withdrawal or surrender where the funds will be used by an individual other than the senior for their own personal benefit, not for the senior’s benefit.
- Requesting a wire transfer when the senior does not seem to know where the money is going or what a wire transfer is.
- Requesting a change of beneficiary to the caregiver or attorney-in-fact under a Power of Attorney.

Red flags of possible financial exploitation also include the following interactions you may have with the senior, the financial advisor (including the Prudential appointed agent), caregiver, attorney-in-fact, or other individual:

- The individual shows excessive interest in the senior’s finances or assets, does not allow the senior to speak for himself or herself, or is reluctant to leave the senior’s side during conversations.
- The senior or individual acting on behalf of the senior seems to speak in a scripted manner when attempting to obtain a withdrawal, surrender, or transfer.
- The senior shows an unusual degree of fear or submissiveness toward the individual.
- The senior expresses a fear of eviction from his or her home, or a fear of nursing home placement, if money is not given to a caregiver.
- A new caregiver, relative, or friend suddenly attempts to conduct financial transactions on behalf of the senior without proper documentation.
- The senior or individual acting on behalf of the senior requests a change of beneficiary, especially to the individual acting on behalf of the senior or to a family member of such individual.
- The senior’s financial management changes suddenly, such as changing of power of attorney to a different family member or a new individual.
- The senior lacks knowledge about his or her financial status, or shows a sudden reluctance to discuss financial matters.

If you suspect or have concerns that financial exploitation may be occurring, please contact Prudential at <https://prudential.ethicspoint.com> if you are aware of fraudulent activity relative to Prudential annuity products.

## Tips for Completing Prudential's Annuity Suitability Questionnaire

If you are affiliated with a broker-dealer that has chosen not to review and approve the suitability of your fixed annuity recommendations, or you are an independent agent who is not associated with a broker-dealer, Prudential requires you to complete a suitability data gathering form and performs a suitability review based on that information.

It is important for Prudential to understand your recommendation and how it meets the client's needs and situation. Therefore, it is important that you carefully and thoroughly complete the Suitability Questionnaire (see grid). The following information provides suitability guidelines that should be considered when completing the questionnaire. Please be aware that Prudential will not accept annuities submitted for which client suitability information is incomplete or not provided (i.e., recommendations where Appendix B or Appendix C to the Model Regulation may apply).

## Suitability Guidelines for Financial Professionals

We are committed to supporting our sales partners and understand that processing business quickly is crucial to your success. This guideline summarizes our processes and highlights frequently missed items that may cause a delay in approving a recommendation for Prudential Fixed Annuity with Daily Advantage Income, SurePath, SurePathIncome, and PruSecure. The suitability/best interest review process conducted by Prudential consists of an analysis of the customer's including, but not limited to, their financial information, investment experience, risk tolerance, source of funding, and understanding of the purchase and how those factors align with the annuity you recommended.

### Most Common Not In Good Order (NIGO) Issues in Suitability Review

- Suitability Questionnaire—Section 2 Financial Information. Affordability is a focal point of the suitability review which is why it is imperative that the financial information listed in section 2 is accurate. Please reference the definitions for question 1 – 5 prior to submission.
  - ▶ Net Worth should not be a higher dollar amount than Existing Assets. Real Estate properties should be included in existing assets and any liabilities should be deducted to determine the net worth.
  - ▶ Existing Assets, Net Worth, and Liquid Net Worth should not be equal if the client owns a home. Prudential does not consider the client's real estate properties as liquid.
  - ▶ Existing Deferred Annuities should include current values of all existing annuities owned by the client after the proposed purchase.
- The Suitability Questionnaire and/or Product Comparison forms must be entirely completed for all applicable sections.
- Risk Tolerance does not match the Product being purchased. (*e.g., Aggressive Risk Tolerance purchasing a fixed annuity*).

### Helpful Tips

- Prior to the making a recommendation, to ensure your new business application is approved, the applicable training and licensing must be completed.
  - ▶ Confirm you are licensed and appointed through Prudential to sell the product you are recommending.
  - ▶ Confirm you completed all state, product specific, and annuity training for business submitted.
  - ▶ Confirm you completed CE when required.
- Complete suitability forms generated in the order entry platform:
  - ▶ For reference, the required suitability forms are listed on the next page.
  - ▶ Arkansas and Florida have state specific requirements.
- Entire statements from the existing carrier are required for all replacement business in addition to the Suitability Product Feature Comparison form requirements.

### Suitability Review – Client Outreach Call Process

Suitability decisions by Prudential are based on a holistic approach with each case reviewed independently. All documentation is analyzed to ensure a comprehensive understanding of the transaction. If Prudential determines the client needs to be contacted directly, the financial professional will be notified in advance.

- Prior to approval, a client outreach call will be required in the following scenarios:
  - ▶ Advanced age – 78 & above
  - ▶ Surrender charge greater than 4% for all ages or surrender charge greater than 1% for ages 75 & above
  - ▶ Replacing life insurance with an annuity
  - ▶ Contract being replaced held for less than three years
  - ▶ Reduction of living and/or death benefit
  - ▶ Presence of a reverse mortgage
- Overall case status updates will be provided by your dedicated Case Manager, and available on our PruXpress website.
- If the case is deemed unsuitable or not in the consumer's best interest, FP will be updated prior to notifying the client.

**\*Required suitability forms when Prudential is performing the suitability review on behalf of the broker-dealer:**

Transaction	Required Form Name	ORD Number
All transactions	Suitability Questionnaire	310038
Replacement transactions	Suitability Product Feature Comparison Form	310039
All Arkansas transactions	Arkansas Supplemental Suitability and Replacement Form for Fixed Indexed Annuity - In addition to: Suitability Questionnaire (ORD 310038 and Suitability Product Feature Comparison Form (310039).	310040
Replacement transactions in the state of Florida	Disclosure and Comparison of Annuity Contracts - In addition to: Suitability Questionnaire (ORD 310038) Suitability Product Feature Comparison (ORD 310039)	202893
Entity Form	Required for Entities when Prudential is performing the Suitability Review.	310359

\*Forms can be accessed by visiting <https://www.prudential.com/advisor-login> and entering PruXpress.

**For any suitability related inquiries, please email [annuities.suitability@prudential.com](mailto:annuities.suitability@prudential.com)**

This material is being provided for informational or educational purposes only and does not take into account the investment objectives or financial situation of any clients or prospective clients. The information is not intended as investment advice and is not a recommendation about managing or investing a client's retirement savings. Clients seeking information regarding their particular investment needs should contact a financial professional.

Annuities are issued by Pruco Life Insurance Company, Newark, NJ (main office).

All references to guarantees are backed by the claims-paying ability of the issuing insurance company.

