What is Regulation 60?

Adopted by the New York Department of Financial Services, Regulation 60 is intended to protect consumers from unsuitable internal or external replacements of existing life insurance or annuity contracts.

We’ve prepared this guide to give you a clearer understanding of the current standards and practices outlined in Regulation 60. With this knowledge, you’ll be better able to protect the interests of your clients and avoid misrepresentation or the incomplete comparison of contracts.

What does “replacement” mean in our industry?

Regulation 60 states that “replacement of a life insurance policy or an annuity contract” means new life insurance or new annuities are to be purchased and delivered, or issued for delivery, in New York. It is also known to the Department licensee that, as part of the transaction, existing life insurance policies or annuity contracts have been or will likely be:

- Lapsed, surrendered, partially surrendered, forfeited, assigned to the insurer replacing the life insurance policy or annuity contract, or otherwise terminated;
- Changed or modified into paid-up insurance; continued as extended term insurance or under another form of nonforfeiture benefit; or otherwise reduced in value by the use of nonforfeiture benefits, dividend accumulations, dividend cash values or other cash values;
- Changed or modified so as to effect a reduction either in the amount of the existing life insurance or annuity benefit or in the period of time the existing life insurance or annuity benefit will continue in force;
- Reissued with a reduction in amount such that any cash values are released, including all transactions wherein an amount of dividend accumulations or paid-up additions is to be released on one or more of the existing policies;
- Assigned as collateral for a loan or made subject to borrowing or withdrawal of any portion of the loan value, including all transactions wherein any amount of dividend accumulations or paid-up additions is to be borrowed or withdrawn on one or more existing policies; or
- Continued with a stoppage of premium payments or reduction in the amount of premium paid.

The proposing producer must document the reason for every transaction. In a replacement situation, a producer should not direct a client to surrender an existing annuity contract, place the proceeds in a short term account (such as a savings account or money market account), and then use all or a portion of those proceeds to purchase another annuity, without identifying the transaction as a replacement. Replacement laws clearly state that the intent of the owner, rather than the direct source of the contract payment, defines such a transaction as a replacement, and therefore requires producers to comply with replacement regulations. Under no circumstances should a producer deliberately disguise a replacement transaction or circumvent Athene’s Replacement Guidelines or the laws of the state.

For your benefit, Athene has produced the following documents to help you understand replacement regulations:

- Doing Business with Athene Producer Guide (19608)
- Athene’s Position and Guidelines of Replacements (19532)
- Guidelines for Internal Replacements of Annuities (16902)

These forms and more can be found on Athene Connect, our producer website.
What steps do I need to take when replacing a contract?

If you have conducted a thorough review of your client’s needs/objectives and believe a replacement would help meet those needs/objectives, there are a series of steps you and your client must take, and forms that must be completed, before a new contract can be issued. It is essential that each form be completed in its entirety, signed and dated in order for a new contract to be issued. All necessary forms can be found on Athene Connect.

To replace or not to replace – that is the question:

When submitting business in New York, the Application and the Definition of Replacement form (20697, Appendix 11) must always be completed and sent to Athene (the issuing Company).

a) If any questions are answered “yes,” the annuity sale will be considered a replacement. You must then complete the following forms and send them to Athene along with a completed Application for Deferral or Indexed Deferred Annuity form and Definition of Replacement form (20697, Appendix 11). Completed copies of all forms must be provided to the client. Athene will then begin the Regulation 60 process. All forms should be dated the same or after the Date of Definition of Replacement form and completed at the time of application.

- Authorization to Obtain Disclosure Information form (20698)
- Important Notice Regarding Replacement / Acknowledgment form (20696, Appendix 10C)
- Request For Funds form (13405)

b) If all of the answers are “no,” then the annuity sale will NOT be considered a replacement. A copy of the Definition of Replacement form (20697, Appendix 11) must be provided to the client and submitted to Athene. No further action is required under Regulation 60 and the application will follow the non-replacement processing procedure.

Please note: The Definition of Replacement form must always be dated the same or before the application and before other new business forms are completed. If it is dated after any new business forms, Athene requires you to begin the application process over to comply with Regulation 60. The client must receive a copy of each signed form for his or her records.

If your sale is a replacement, you will need these forms as well.

**Your sale will be considered a replacement if any “yes” box is checked.**
Athene’s process for Regulation 60 business

Athene will send the appropriate forms to the Replaced Company. Once received, the Replaced Company will complete its portion of the Disclosure Statement (Appendix 10A or 10B) and send it back to Athene. If the Replaced Company does not respond within 20 days, Athene will ask you to provide a good faith estimate of the values required to complete the Disclosure Statement. You may rely upon information from the Replaced Company, such as a current account statement, to obtain those values.

- **Form 20694, Appendix 10A:** Used if replacing a life insurance policy.
- **Form 20695, Appendix 10B:** Used if replacing an annuity contract.

When you receive the partially completed Disclosure Statement from Athene, you’ll need to complete the section titled “Agent’s or Broker’s Statement” as shown in the example below. Once the form is completed in full, you must send it back to Athene. **We will not send out any transfer paperwork and cannot issue the annuity contract until the completed Disclosure Statement is received by Athene.**

For more than one replacement, the “Summary Result Comparison” section of page 3 should include a separate comparison for each replaced annuity and proposed annuity, and a composite of the combined replaced annuities and the proposed annuity. The top half of page 3 needs to be completed for each replacement based only on the account value being moved. An additional page 3 should be completed and should reflect the sum of the multiple account values replaced and the proposed annuity based on all the values of all replacements combined.

**Important Reminders:**

**Q 1-2:** Avoid generic, “one-size-fits-all” recommendations when providing background for selling products to clients. Instead, provide a differentiated, reasonable basis for each recommendation to replace an existing product.

**Q 3:** Please list all advantages (at least one). You may not say “no,” “none,” or “n/a.” You must list at least one advantage of continuing the existing annuity contract (e.g., out of the surrender charge period).

**Q 4:** Surrender Charges must be disclosed in full for both the existing and recommended contracts.

**Remarks:** Use this section to provide additional clarity to your recommendation. For example, use this section explain if a partial replacement is being recommended, or to describe a transaction fee or rider charge.

*One box must be checked.*

**Note** - Athene sales material is required to be used at the point of sale; therefore, this question must always be answered yes. Any sales material not created by Athene must be submitted to and approved by Athene prior to use. After Athene approval, any sales material not created by Athene, but used at the point of sale, must be submitted with the Regulation 60 paperwork.

**You must sign and date all forms.**

The completed Disclosure Statement will be included with the annuity contract issued by Athene. It is imperative that the annuity contract be delivered promptly to the client so he/she may review the Disclosure Statement. If the client determines that the replacement was not in his/her best interest, he/she may elect to free look the annuity and have the premium refunded to the existing carrier. Failure to deliver the annuity contract in a timely fashion could impair the Replaced Company's ability to reinstate a surrendered policy. This could result in tax consequences for the client and in a complaint about the delivery of the contract and the handling of the free look.
We are here to assist you every step of the way. Once paperwork is received by Athene, in good order, we will review each application on a case by case basis and process accordingly. We will let you know throughout the process if additional information is needed or issues with the Replaced Company arise.

Athene does not encourage or condone the systematic or deliberate replacement of existing life insurance policies and/or annuity contracts (sometimes referred to as “churning and/or twisting”) as a marketing practice or method of doing business. This includes not only replacement of other companies’ policies and contracts, but the replacement of Athene policies and contracts as well. At the same time, we acknowledge that replacements are not always improper and may, in appropriate situations, be in the best interest of the client.

Questions?

Contact our Customer Contact Center at 888-ANNUITY (888-266-8489)

A decision to recommend the purchase or exchange of an annuity should be based on a careful analysis of the information gathered from your client. By making sure your client understands the features, benefits, risks and costs associated with the annuity, you can help ensure client satisfaction and protect your business.

If you have questions regarding the suitability of an Athene product, or you need assistance to determine if a replacement is beneficial to your client, please visit Athene Connect where you can find helpful information and additional tools under the Rules & Guidelines tab.

You may also contact your Athene sales partners. While we cannot make a suitability determination over the phone, we are happy to discuss each individual case and let you know of any questions or concerns we may have based on the information you share.

Athene Annuity and Life Company, headquartered in West Des Moines, Iowa, and issuing annuities in 49 states, and D.C., and Athene Annuity & Life Assurance Company of New York, headquartered in Pearl River, NY, and issuing annuities in New York, are not undertaking to provide investment advice for any individual or in any individual situation, and therefore nothing in this should be read as investment advice. The term “financial professional” is not intended to imply engagement in an advisory business with compensation unrelated to sales. Financial professionals will be paid a commission on the sale of an Athene annuity.

ATHENE ANNUITIES ARE PRODUCTS OF THE INSURANCE INDUSTRY AND NOT GUARANTEED BY ANY BANK NOR INSURED BY FDIC OR NCUA/NCUSIF. MAY LOSE VALUE. NO BANK/CREDIT UNION GUARANTEE. NOT A DEPOSIT. NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY. MAY ONLY BE OFFERED BY A LICENSED INSURANCE AGENT.

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