

As previously communicated, the Department of Labor (“DOL”) has issued restrictive policies on the sale of certain products involving funds from a qualified plan. In our last communication, we highlighted the reinstatement of the five-part test for determining whether the agent is acting in a fiduciary capacity. If an agent’s interactions with and recommendations to a customer meet the five-part test, then the sale is considered a prohibited transaction and the agent may not receive compensation for that transaction unless a Prohibited Transaction Exemption (“PTE”) applies.

All agents, regardless of whether an agent qualifies as a fiduciary, who are assisting American National clients with qualified rollovers to Individual Retirement Accounts, Annuities and Defined Contribution/Benefit plans or who are selling qualified insurance and annuity products to such plans will be required to comply with the requirements of PTE 84-24 and the Impartial Conduct Standards. PTE 84-24 requires that agents disclose the commission s/he will receive when a qualified plan rollover is involved or a qualified insurance or annuity product is sold. An Insurance Agent/Producer Compensation Disclosure document (Form 11229, located in [ExpertForms](#)) has been created to assist you and will be required at the time of sale. The Disclosure document will also be required if your commission changes from the amount or percentage provided in the initial disclosure (trailing commissions are not considered a change). Additional training regarding our form and process will follow in the coming weeks.

The Impartial Conduct Standards require that:

- The advice the agent gives must be in the “best interest” of the retirement investor. This best interest standard has two chief components: prudence and loyalty:
 1. Under the prudence standard, the advice must meet a professional standard of care, and
 2. Under the loyalty standard, the advice must be based on the interests of the customer, rather than the competing financial interest of the agent or firm;
- No more than reasonable compensation can be charged or received by the agent or agent’s agency; and
- The agent may not make any misleading statements about investment transactions or products, compensation, or any conflicts of interest.

Additionally, to assist you with compliance, we have created a list of questions you may be asked and suggested responses to avoid fiduciary status and/or to help successfully rely on PTE 84-24 and the Impartial Conduct Standards.

Potential Frequently Asked Questions and Responses for Reliance on PTE 84-24

Q: Are you providing investment advice? Are you a fiduciary?

A: My role is not to advise you to [rollover or not rollover to/purchase or not purchase] a specific product, and I am not your fiduciary in this respect. I may give you educational information, but whether you [rollover/purchase this product with] qualified funds is solely your decision.

Q: What compensation do you receive?

A: Information about the compensation I receive will be shared with you on a disclosure statement.

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Q: Do you receive a commission for a sale of a product?

A: Yes, information about the commission I receive will be shared with you on a disclosure statement.

Q: Is your compensation or commission taken out of my investment? Are there any other fees taken out of my investment?

A: Are there fees for income benefit riders? Do they come out of my investment?

No, the commission is paid directly by the insurance company. Fees in the form of surrender charges may apply during surrender periods depending on the product you decide to purchase. These fees have been disclosed to you in the product disclosure documents.

Q: Does anyone else receive compensation for this sale?

A: My firm may receive additional compensation based on agreements with the insurance company. This is not deducted from your investment.

Q: Do you have a conflict of interest with this sale?

A: As with all professional services, conflicts of interest are created whenever the professional is paid and can vary by transaction. In my case, I am paid to provide you with information and education relating to insurance type products that may meet your needs. Any specific conflicts of interest would be disclosed to you on a disclosure statement should you decide to make a purchase. The commission I receive for the sale of an annuity may be considered a conflict of interest & therefore I have shared that information with you.

Q: Are there any limitations on the investments you will recommend?

A: The information and education that I have shared with you today are limited to annuity and/or insurance related products. If you wish to pursue securities transactions, you will need to meet with a registered representative or financial advisor that is licensed to sell securities.

Q: Can I have a written statement that you are or are not a fiduciary?

A: I am not making a recommendation as to whether or not you should initiate a rollover into a specific product. As such, I am not a fiduciary in that respect. I would be happy to put that in writing for you.

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If the Customer asks for this in writing, please use American National's form letter, [Fiduciary Status Disclosure Document](#).



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