

# Nationwide Suitability Help Guide



## Intent of this Suitability Guide

This guide is intended to help outline the Nationwide suitability review process. The below sections specifically address areas that commonly create confusion or generate additional questions and do not represent all possible scenarios, concerns, or questions.

## Our expectation of the Financial Professional

Our expectation is the Financial Professional obtains relevant information from the client regarding their insurance needs and financial objectives and ensures the client understands the various features of the annuity, such as the surrender period and charges, potential adverse tax consequences, costs and features of riders and limitations on returns. The proposed annuity must provide clearly documented benefits to the client to be considered a suitable sale, and the benefits should be specifically outlined within the Consumer Profile for Fixed Annuity Products document.

## Liquid Assets

Nationwide expects clients to have an adequate emergency fund. These assets are held in a manner that makes them appropriate as an emergency fund including such considerations as liquidity and risk. If your client has less than three months of living expenses covered by their liquid assets, please provide an explanation of how the client will address a sudden, financial emergency. Please note, taking on additional debt is not acceptable for the purposes of our review.

### Nationwide does not consider the following assets as a primary emergency fund

- Life insurance cash value
- Loans of any type, including life insurance, home equity loans, and retirement plan loans
- Assets subject to a significant amount of risk (many stocks, bonds, mutual funds)
- Assets subject to tax penalties or other penalties if utilized

### Nationwide considers the following assets as liquid in most circumstances (unless subject to penalty)

- Checking, Savings, CD
- Money Markets
- Low-risk stocks, bonds, mutual funds
- Cash (currency) held by the owner

## Naturally Owned Nonqualified contract where the Annuitant is not the Owner

Typically, this contract structure is used because the owner's age exceeds the maximum issue age for an annuitant. In these cases, we require additional information and acknowledgements. **While we generally do not accept these submissions, they are examined on a case by case basis.**

The challenge lies within the structure of the contract being annuitant driven and having the death benefit only being triggered upon the death of the annuitant. If the owner were to pass before the annuitant, Contingent Deferred Sales Charge (CDSC) may apply and ownership is passed to the party with contractual succession rights, not the annuitant. Funding this account set-up with funds from checking/savings accounts or annuity replacements likely do not provide a significant benefit to the client, as the current accounts already offer benefits such as additional liquidity, gifting options, or continued tax deferral. This can result in the new owner forced to pay surrender charges and potential taxes on earnings. Please have your client consult with a tax advisor.

***See reverse side for additional information***

We want to see a clear benefit primarily for the client. Marginal or minimal benefits will not be considered for an approval. Generally, we require the client to have significant liquid assets and net worth to consider accepting this structure. We require the client purchase the product with the shortest surrender period available. The scenario eligible for exception consideration would include a client who is facing forced annuitization within the next six months without deferral options, and annuitization is not in the client's best interest. In this case, we would require documentation of the forced annuitization.

### **Contract Construction**

We recommend consulting the contract language to ensure the parties to the contract are structured appropriately to meet the client's intent. For contracts where the succeeding owner(s) are younger than age 59.5 a 10% federal tax penalty, in addition to ordinary income taxes, may apply upon distributions. Please have your client consult a tax advisor.

Please consult the contract to understand the succession rights within the contract.

### **Requirements for Review**

- Clear explanation of benefit of sale, addressing product selection, structuring, etc., addressed on the suitability form or other documentation with client signature
- Name, contact information, relationship to client, for a trusted contact of the client
- "Disclosure for Contracts Where Owner and Annuitant Are Not the Same Natural Person" form AAF-0485AO
- Recent account statements for all sources of funds, excluding checking/savings accounts
- If a replacement, documentation of forced annuitization within the next six months
- "Designation of Beneficiary Options" form APO-4566-P (Optional)

### **Trusts**

When recommending a purchase of an annuity to a trust, please outline on the suitability form how the proposed product will meet the objectives of the trust.

- For revocable trusts, the Suitability form should be completed with the grantor's information
- For irrevocable trusts, the Suitability form should be completed with the trust's information

### **Trust Considerations**

For all trusts, please specify the general purpose of the trust and disclose the relationship of the annuitant to the trust.

As the trust may operate differently than the annuity applied for, please ensure the following questions are addressed before applying:

- Is the trust forced to liquidate if the grantor(s) expire?
- Do/Does the beneficiary on the application align with the trust operation?
- Does the Trustee understand that only the annuitant's death will trigger the death benefit provisions of the annuity?
- Do the Trustees understand that if the owner of the annuity changes, in most circumstances, any riders and benefits will terminate?

***See next page for additional information***

## **Income Comparisons**

When purchasing a Nationwide annuity with an income rider and the source of funds is an existing annuity with an income rider, or a defined benefit plan designed to provide guaranteed income, we will compare the income amount available in both products at the age the client intends to start withdrawals from our contract. We require specific, documented benefits to our purchase in all instances, especially if the existing annuity/pension offers a higher guaranteed income than the proposed Nationwide product. If the client is replacing an annuity and starting income immediately or within a year, we may require an annuitization quote from the surrendering company to compare income values. The income values are required on the Suitability Form.

When purchasing an Immediate Annuity and the source of funds is an existing annuity or defined benefit (pension) plan, an income comparison is required. We will compare our Nationwide SPIA payment amount (in dollars) compared to the existing annuity's annuitization amount or pension payment amount. We understand the payment option selected at Nationwide may not be available within the existing annuity/pension, however a comparable payment option (term certain, installment refund, etc.) should be used for comparison. Please also explain in the Producer's Statement if the client is choosing an income option with Nationwide not offered at the surrendering company. The income values are required on the Suitability Form.

## **Replacements and Rider Comparisons**

The replacement and rider sections of the Suitability form should be completed in their entirety. These sections outline information about the existing product and completion is requested to ensure the client is aware of all features of the existing product (riders, potential/current income, interest rate, fees, etc.). Additionally, the Financial Professional Statement section must provide fair and balanced advantages and disadvantages of any replacement or exchange. It's important to include any specific benefits, riders or loss of income when outlining information in P2 of the Suitability form. **Current statements are required for replacements.**

## **Best Interest Regulation**

Changes to the Best Interest Regulation in National Association of Insurance Commissioners (NAIC) states have created new requirements for documentation, new business signatures, and training. We require the following for states that have adopted the Best Interest model:

- The Insurance Agent (Producer) Disclosure for Annuities form (or the ACORD 660 form with the same name)
- The Insurance Agent (Producer) Disclosure for Annuities form and the Customer Profile for Fixed Annuity Products form must be signed on or before the application signature date, provided Best Interest training requirements have been met per state guidelines

## **Inherited/Beneficially Owned Annuity Contracts**

We consider inherited/beneficially-owned annuity contracts used to purchase new annuity contracts as replacements and should be treated as such for suitability purposes. The submission should reflect a replacement and the existing and proposed products should be compared accordingly.

## **SECURE Act - Qualified Contracts**

As of January 1, 2020, the Internal Revenue Service (IRS) implemented new guidelines via the Setting Every Community Up for Retirement Enhancement (SECURE) Act that impact beneficially owned Qualified contracts. Given these changes, new concerns regarding the 10-year limitation have presented themselves in relation to annuity purchases.

New annuity purchases are no longer considered Required Minimum Distribution (RMD) friendly.

- CDSC will apply to these contracts; please consider the product being purchased and how it will affect the client's ability to take withdrawals from the contract; life expectancy stretches are no longer applicable
- For qualified, non-spousal inherited contracts, the surrender period must not exceed the SECURE Act 10 year liquidation requirement

***See reverse side for additional information***

- Taxable implications: Since the cases must be surrendered within 10 years, the final year(s) could have higher than normal withdrawal needs to meet requirements; please have the client review with their tax advisor to ensure education and their best interests

Exceptions for SECURE Act requirements:

- Surviving spouse
- Minor child (once they reach age of Majority the account must be liquidated in 10 years)
  - A detailed plan and significant benefits of the new annuity over the replacement will assist in the review
- Disabled or chronically ill beneficiary
  - Supporting documentation will be required
- Non-spousal beneficiaries who are less than 10 years younger or older than the decedent

### **Partial Penalty-Free Transfers**

Most annuity contracts offer penalty-free provisions during the surrender charge period to provide the client liquidity. Using these provisions to fund an annuity purchase would classify the purchase as a replacement.

We recognize there are scenarios where a client may have multiple objectives that are best served with multiple annuities; however, multiple annuity contracts also provide a level of complexity (i.e. general complexity of annuity products, fees, riders, beneficiary claim process) that requires sufficient justification for approval. We do not consider penalty free transfers between fixed indexed annuities to add diversification to the client's investment portfolio.

### **Market Value Adjustment (MVA)**

During down markets it is understood that MVA plays a role when deciding whether to continue an annuity. These situations are reviewed on a case by case basis. Please note the following concerns regarding these types of replacements:

- Statements are required for review; please ensure that the MVA is present on the statement; in addition to the statement, a screenshot showing the most recent values may be requested
- The MVA amount can fluctuate daily due to market conditions; please include language in the Financial Professional statements on the Suitability Form clarifying the client has been given full disclosure regarding the positive and negative impacts fluctuating MVA can have on their replacement; if you need additional space, please provide a letter of instruction signed and dated by both the agent and the client
- When completing the Suitability Form, please provide the full CDSC amount on page three, section 25g and the MVA amount in section 25h with an "As of Date"
- In the Financial Professional Statement, present a clear benefit for the client in making the exchange Example: If the new contract will have an income rider please explain what has changed in the client's objectives and the clear benefit for the client
- Contracts being replaced less than 60 months after issue will be reviewed with senior leadership; a Letter of Instruction may be requested as an additional requirement

*See next page for additional information*

## **Additional scenarios and considerations**

Below is a list of common scenarios and additional information the Financial Professional should provide within the Financial Professional Statement or additional letter to explain the situation and reduce the time required for suitability review.

### **Financial Situation**

**Situation:** **Client is younger than 59.5 with an outstanding loan on the source of funds used to fund their Nationwide annuity**

In the Financial Professional Statement section of the Customer Profile form, please clarify the client's plan to pay off their loan before transferring funds to Nationwide.

**Situation:** **Client has 70-75% of their total net worth held in annuities**

Please provide more detail regarding how this concentration in annuities is appropriate for the client given their age.

**Situation:** **Client's income is unusually large or small relative to the client's financial assets**

Please provide details as to the client's level of income and financial assets. Outline why the client's savings are not greater given their annual income, or why their savings are so large given their income.

**Situation:** **Client is unemployed**

Please explain the plan for seeking future employment. What was the nature of the client's previous employment and what was the client's annual compensation?

When a client is unemployed, we typically like to see their liquid assets cover more than six months of expenses. Please explain how the client's current liquid assets will be able to support the client's unemployment status for an extended period while this annuity is under surrender charges.

**Situation:** **Client has less than three (3) months (or requisite levels) of expenses in liquid assets**

Please specify if any of the disclosed expenses are discretionary and could be reduced if needed. What measures is the client taking to build an adequate emergency fund?

**Situation:** **Client has unusually low expenses, or low liquid assets, or high debt**

Please provide additional information to explain/support the specific situation or concern. A Financial Inventory Worksheet may also be required.

**Situation:** **Client has a reverse mortgage**

Funds from a reverse mortgage will not be accepted.

Was this a lump sum or paid as installments? If installments, what is the length of time? When was the loan taken? Why was the reverse mortgage taken? Is the reverse mortgage included in the client's income?

**Situation:** **If Lifetime Income was selected as a financial objective but no rider is being purchased**

How will the proposed contract provide lifetime income?

**Situation:** **The client is applying for a means-tested government benefit and this annuity is part of the planning process**

Include the name of the Elder Law Attorney. Annuities sold in conjunction with a Medicaid application will only be approved if a named attorney is providing guidance.

### **Elder Sales**

**Situation:** **Client is 80 years of age or older**

Please provide additional details in the Financial Professional Statement as to the suitability of this product given the client's age. Please include whether any trusted friends or family members were in the sales meeting and their names and relationship if applicable.

***See reverse side for additional information***

## Objectives, Definitions, and Clarifications

**Situation:**     **The client elects a risk tolerance of aggressive**

How does this product fit into the client's risk tolerance?

**Situation:**     **The client selects a shorter Time Horizon than the product's CDSC schedule**

How does this product meet the client's investment time horizon?

Liquidity Needs should reflect when the client plans on or would like to begin taking withdrawals.

Time Horizon reflects the client's expected length of time they will invest in this product.

General Need for Income If the client is purchasing an income rider, plans to utilize a policy for income, or is purchasing an immediate annuity but does not appear to have a need for income (i.e., More income than expenses) please be sure to explain why the income is needed. If applicable, explain why the proposed product is going to be used rather than taking withdrawals from the existing source of funds.

### Source of Funds

A Registered Representative (RR) or Investment Advisor Representative (IAR) is required to assist in liquidating securities or securities-based products. If the writing agent is not a RR or IAR (e.g. Insurance-Only), the Non-Solicitation Form is required in most states if the source of funds for the Nationwide purchase is a security or securities-based product. This form states the Insurance-Only Financial Professional did not recommend the liquidation of securities, as he/she is not licensed to do so.

**Situation:**     **The funds are coming from a Variable annuity**

Generally, variable annuities offer a guaranteed fixed subaccount option. This information should be disclosed in the Replacement Section (25) to ensure the client is fully aware of the current and guaranteed minimum interest rates.

**Situation:**     **Source of funds is life insurance**

How have the client's objectives changed? Does the client have sufficient life insurance to meet their life insurance needs after the purchase of this product?

**Situation:**     **CDSC or penalties will occur upon the surrender of the product**

Specifically outline why the client is willing to pay the CDSC or penalties.

**Situation:**     **The guaranteed death benefit is higher than the contract value**

Specifically outline why the client is willing to give up the death benefit value.

### Financial Professional Statement

The Financial Professional Statement should explain how the product benefits the client and address specific goals and objectives. Any additional information pertinent to the case not specifically referenced in another section can be added here. Please ensure to outline the advantages of maintaining the existing source of funds in (P3).

#### Nationwide Life Insurance Company and/or Nationwide Life and Annuity Insurance Company Columbus OH

Life Insurance and Annuities are issued by Nationwide Life Insurance Company and/or Nationwide Life and Annuity Insurance Company, Columbus, Ohio. The general distributor for variable insurance products is Nationwide Investment Services Corporation, member FINRA.

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