

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Bulletin 2018-24-INS

In the matter of

Agency and Individual Insurance Producer
Variable Life / Variable Annuities Line of Authority

Issued and entered
This 17th day of December 2018
by Patrick M. McPharlin
Director

This bulletin supersedes Bulletin 2016-07-INS.

Effective October 1, 2018, the Financial Industry Regulatory Authority (FINRA) restructured its representative-level qualification exam program. This bulletin contains the new requirements applicable to resident and non-resident agency and individual insurance producer applicants for the variable annuities line of authority to successfully complete the Securities Industry Essential exam in addition to the FINRA series 6 or 7 exam. This is the only difference between this bulletin and Bulletin 2016-07-INS; however, all applicable requirements are restated herein for clarity.

I. Agency and Individual Insurance Producer Licensing

In Michigan, variable life insurance contracts and variable annuities are considered insurance products and regulated as such, despite their status as securities under federal law. DIFS processes all agency and individual insurance producer licensing applications through the National Insurance Producer Registry (NIPR). Since April 4, 2008, the VA line of authority, which encompasses variable life insurance contracts and variable annuities, has been issued to agency and individual insurance producers as a separate line of authority pursuant to Section 1206(1)(e) of the Insurance Code, 1956 PA 218 as amended, MCL 500.1206(1)(e).

Except as provided for in Section II of this bulletin (Section II), all resident and non-resident agency and individual insurance producer applicants for the VA line of authority must first register or be registered with the Financial Industry Regulatory Authority (FINRA), <http://www.finra.org/> and have successfully completed the following: 1) the Securities Industry Essentials (SIE) exam; and 2) either the FINRA series 6 or 7 examination.

II. Agency Insurance Producer Licensing - Insurance Networking Arrangements

On April 23, 2013, the Division of Trading and Markets (SEC Staff) of the Securities and Exchange

Commission (SEC) issued a No-Action Letter¹ to three trade groups regarding insurance agencies entering into insurance networking arrangements with registered broker-dealers for the offer and sale of variable products without the insurance agencies registering as broker-dealers under Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). The SEC Staff determined that, subject to certain conditions, it would not recommend enforcement action to the SEC under Section 15(a) of the Exchange Act against insurance agencies that have not registered as broker-dealers under Section 15(b) of the Exchange Act, if the insurance agencies:

- 1) enter into an insurance networking arrangement with a registered broker-dealer for the offer and sale of variable products; and
- 2) make certain transaction-based payments based on the sale of variable products.

The No-Action Letter imposes specific conditions on registered broker-dealers, dual representatives, insurance agencies, and unregistered employees involved in insurance networking arrangements.

Based on this determination, an insurance agency may apply to DIFS for an insurance agency producer license without being required to be registered with FINRA if it has entered into an insurance networking arrangement with a registered broker-dealer that meets the conditions provided for in the No-Action Letter for the offer and sale of variable products. In addition, the insurance agency may not act as an agent of an insurer unless the insurance agency becomes properly appointed with that insurer. An insurance agency may not receive its appointment until an affiliated individual insurance producer is FINRA registered, licensed for the VA line of authority and appointed by the same insurer. An insurance agency is required to submit its insurance networking arrangement to DIFS along with a notarized attestation confirming the fact that the insurance networking arrangement is in conformity with the conditions provided in the No-Action Letter. In addition, an insurance agency is responsible for immediately notifying DIFS in the event the SEC modifies or otherwise changes its position on insurance networking arrangements and/or the registration of the insurance agency as a broker-dealer.

III. Individual Insurance Producer - Education/Exam Requirements

A. Resident Producer

All resident individual insurance producer applicants for the VA line of authority must register with FINRA pursuant to Section I of this bulletin (Section I). All resident insurance agency producer applicants for the VA line of authority must register with FINRA pursuant to Section I, unless DIFS has exempted the insurance agency from registering, pursuant to Section II. Since August 3, 2009, any resident individual insurance producer applicant seeking to hold the VA line of authority is required to pass the Michigan variable annuities examination, but is no longer required to hold a basic life qualification as a precondition to seeking a VA line of authority. However, an insurance producer who intends to sell life insurance other than variable life insurance must obtain the life line of authority in addition to the VA line of authority.

¹ A copy of the No-Action Letter is available at https://www.sec.gov/divisions/marketreg/mr-noaction/2013/cai_sifma_acli-15a.pdf.

DIFS does not require pre-licensing education for the VA line of authority. However, continuing education requirements under MCL 500.1204c do apply to the VA line of authority.

B. Non-Resident Producer

All non-resident individual insurance producer applicants for the VA line of authority must register with FINRA pursuant to Section I. All non-resident insurance agency producer applicants for the VA line of authority must register with FINRA pursuant to Section I, unless DIFS has exempted the insurance agency from registering, pursuant to Section II. A non-resident individual insurance producer applicant, who holds a VA line of authority in his/her home state, may apply for a reciprocal Michigan VA line of authority. A non-resident insurance producer applicant from a state that does not issue a separate VA line of authority, but includes the VA line of authority within the life line of authority, is also eligible to apply for the Michigan VA line of authority.

Any questions regarding this bulletin should be directed to:

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