

Understanding the Fiduciary Rule and PTE 84-24

This guide provides background on the Department of Labor's (DOL) Fiduciary Rule, prohibited transaction exemption (PTE) 84-24, and the potential consequences of violations related thereto.

This guide is also designed to assist you and your clients with completing the PTE 84-24 Disclosure and Acknowledgement form below (disclosure statement) if you determine your use of such form will help you meet your obligations under the Fiduciary Rule.

Remember, it is your responsibility to:

- ✓ Understand the Fiduciary Rule,
- ✓ Determine if the Fiduciary Rule applies to you when making a recommendation to your client, and
- ✓ Satisfy all obligations that may arise under the Fiduciary Rule and all conditions of a PTE applicable to you.

If you choose to rely on PTE 84-24, you are responsible for furnishing a completed disclosure statement to each applicable client prior to or at the time a recommendation is made and retaining signed copies.

Renewing the Written Disclosures:

To continue to comply with the exemption the 84-24 Disclosure and Acknowledgement should be issued to the customer:

- Prior to submission of the initial application
- Any time there is a material change to the annuity or coverage
- Any time a new rider or addendum is added to the contract

Record Retention:

Keep the executed disclosure form, any illustrations, sales literature or other information provided to your client for at least 6 years from the date that the disclosure form is executed.

While Nationwide is providing you with background information and a form of disclosure statement you may use to comply with certain requirements of PTE 84-24, Nationwide is **not** responsible for your compliance with the Fiduciary Rule or PTE 84-24. This information is provided as educational material only. Nationwide disclaims any and all liability for misinterpretation or misapplication of this material. It is the exclusive responsibility of the Financial Professional to understand, determine, and satisfy all obligations that may arise under the Fiduciary Rule or any applicable PTE when used in any recommendation.

Fiduciary Rule

Any financial professional who meets the requirements of the DOL's five-part test for providing investment advice and receives compensation (such as insurance commissions) for recommending the purchase of, or rollover into, an annuity from a qualified retirement plan or individual retirement account (together, retirement investor client) will be considered an investment advice fiduciary under the Fiduciary Rule.

You should know that, in light of more recent guidance from the DOL, certain recommendations that traditionally did not meet the requirements

of the DOL's five-part test may now meet those requirements. If you are uncertain whether you are an investment advice fiduciary under the Fiduciary Rule, consult with your legal counsel before proceeding.

Financial professionals subject to the Fiduciary Rule, including licensed insurance producers, must either avoid engaging in a prohibited transaction (such as taking insurance commissions) or comply with one of the DOL's prohibited transaction exemptions (PTEs).

PTE 84-24

PTE 84-24 provides an exemption for financial professionals who receive insurance commissions for recommended sales of annuities to certain retirement investor clients. To rely on the exemption, you:

- Must ensure that the sale is on terms at least as favorable as an arms-length transaction with a third party;
- Cannot receive more than reasonable compensation in exchange for services; and
- Must provide to the retirement investor client a written notice (disclosure statement) relating to the recommended annuity transaction that must be signed by the retirement investor client and retained by you for six years, and that describes:
 1. Any affiliation with the insurer issuing the annuity or if your ability to recommend products of other insurers is limited;
 2. The percentage rate(s) of the sales commission you'll receive (including any trail compensation)
 3. Any charges, fees, etc., that may be imposed under the annuity in connection with the purchase, holding, exchange, surrender or other termination of the annuity

Consequences of Violations

In the case of IRA accounts, your clients could be subject to excise taxes imposed by the IRS and other potential regulatory actions. You could also be in breach of your agent agreement with Nationwide.

In the case of qualified retirement plans, failure to comply with PTE 84-24 (or another applicable PTE) could subject you to fiduciary liability, litigation claims asserted by the retirement investor or another plan fiduciary, civil enforcement actions by the DOL and excise taxes imposed by the Internal Revenue Service (IRS) against you.

How to complete the Disclosure Statement

If you have determined that you are an investment advice fiduciary receiving compensation in connection with a recommendation and that you can rely on PTE 84-24, you may use this disclosure statement for use only with Nationwide annuities.

Note: This disclosure statement assumes that you will NOT be providing ongoing monitoring and investment advice regarding the applicable Nationwide annuity.

This form is not a good order requirement for new business. The purpose of this disclosure form is to provide important information for the Fiduciary or IRA owner to consider when determining whether to purchase an annuity contract with Plan or IRA assets. The information is also intended to satisfy the requirements and conditions of U.S. Department of Labor Prohibited Transaction Exemption 84-24 (“PTE 84-24”).

STEP 1:
Check the box for either the IRA owner or the Plan fiduciary.

STEP 2:
Insert the name of the Nationwide annuity contract.

STEP 3:
Insert the commission as a percentage of each purchase payment and a percentage of contract value.

**Nationwide**

PTE 84-24 Disclosure and Acknowledgment
Nationwide Life Insurance Company
Nationwide Life and Annuity Insurance Company

Purpose
The purpose of this disclosure form is to provide important information for the Plan Fiduciary or IRA owner to consider in determining whether to purchase or contribute to an annuity contract with Plan or IRA assets. The information is also intended to satisfy the requirements and conditions of U.S. Department of Labor Prohibited Transaction Exemption 84-24 (“PTE 84-24”). The term “Financial Professional” means the licensed insurance agent who is making the recommendation to purchase the annuity. This form is not required as an item of good order by Nationwide as product manufacturer.

Contract Information
These disclosures are being provided in connection with recommendations made by the Financial Professional to (Financial Professional to check one)
 an IRA owner **OR** a Plan fiduciary
to purchase an annuity contract with assets of the IRA or Plan.
The annuity contract is identified as **Nationwide** _____ and the insurance company issuing the contract is **Nationwide Life Insurance Company, Nationwide Life and Annuity Insurance Company, Jefferson National Life Insurance Company and/or Jefferson National Life Insurance Company of New York (“Nationwide”)**.
Please retain copy for your records and send to your insurance agency accordingly.

Compensation Information
The commission to be paid to the Financial Professional by Nationwide in connection with the purchase of the recommended annuity contract is equal to _____% of each purchase payment; and _____% of Contract Value each subsequent year the annuity contract is in force.
Additionally, if the Financial Professional is working with an independent marketing organization, that marketing organization is likely to receive compensation as a result of the sale of this annuity contract.

Contract Fees and Charges
Any charges or fees which may be imposed under the recommended annuity contract, including any surrender charges or rider fees, in connection with the purchase, holding, exchange, termination, or sale have been disclosed to you in the form of product summaries or other materials provided by Nationwide to the Financial Professional.

Insurance Company Affiliation
As a state licensed Financial Professional, I am able to sell and service annuities for Nationwide as well as various other insurance companies where I am appointed. This relationship does not constitute an affiliation between myself and Nationwide.

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STEP 4:
Print your full name,
sign and date.

**If the recommendation is
to a Plan Fiduciary:**

STEP 5:
The Plan Fiduciary must
print the name of the
plan, the full name of
the Plan Fiduciary, and
sign and date here.

**If the recommendation
is to an IRA owner,
skip to Step 6.**

**If the recommendation is
to an IRA owner:**

STEP 6:
The IRA owner must
print, sign and date here.

**If the recommendation
is to a Plan Fiduciary, go
back to Step 5.**

Financial Professional Acknowledgment

I acknowledge a final signed and dated copy of this Disclosure and Acknowledgment form was provided to the client along with Nationwide product summaries and any other information used in the recommendation:

Full Name (please print): _____

Firm Name (if applicable): _____

Signature: _____ Date: _____

Plan Fiduciary Acknowledgment (complete if recommendation is a Plan Fiduciary)

The undersigned represents and acknowledges that he/she:

- is a fiduciary of the Plan;
- is independent of the insurance company;
- is not an insurance agent or broker, pension consultant or insurance company involved in the transaction;
- has received a final signed and dated copy of this Disclosure and Acknowledgment form along with Nationwide product summary and any other information used by the Financial Professional in the recommendation;
- approves the purchase of the annuity contract on behalf of the Plan; and
- will not receive, directly or indirectly (e.g., through any affiliate), any compensation or other consideration for the undersigned's own personal account from any party dealing with the plan in connection with the transaction.

By signing, I acknowledge that I have read and understand the information provided to me in this Disclosure and Acknowledgment:

Name of Plan: _____

Full Name (please print): _____

Signature: _____ Date: _____

IRA Owner Acknowledgment (complete if recommendation is an IRA Owner)

The undersigned represents and acknowledges that he/she:

- is the IRA owner;
- has received a final signed and dated copy of this Disclosure and Acknowledgment form along with the Nationwide product summary and any other information used by the Financial Professional in the recommendation; and
- approves the purchase of the annuity contract on behalf of the IRA.

By signing, I acknowledge that I have read and understand the information provided to me in this Disclosure and Acknowledgment:

Full Name (please print): _____

Signature: _____ Date: _____



• Not a deposit • Not FDIC or NCUSIF insured • Not guaranteed by the institution • Not insured by any federal government agency • May lose value

FOR FINANCIAL PROFESSIONAL USE ONLY - NOT FOR USE WITH THE PUBLIC

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