**Section 3120.40 Definitions**

"Annuity" means an insurance product under Illinois law that is sold by insurance companies in which the insurer provides for either a single income payment or a series of income payments at regular intervals in exchange for a single premium (contribution) or multiple premiums (contributions) paid by the annuitant.

"Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by an insurance producer directly from the consumer or in connection with the recommendation or sale of an annuity from an insurer or intermediary.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Consumer Profile Information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

Age;

Annual income;

Financial situation and needs, including debts and other obligations;

Financial experience;

Insurance needs;

Financial objectives;

Intended use of the annuity;

Financial time horizon;

Existing assets or financial products, including investment, annuity, and life insurance holdings;

Liquidity needs;

Liquid net worth;

Risk tolerance, including but not limited to willingness to accept non-guaranteed elements in the annuity;

Financial resources used to fund the annuity; and

Tax status.

"Continuing education credit" or "CE credit" means one continuing education credit as defined in 50 Ill. Adm. Code 3119.

"Continuing Education Provider" or "CE Provider" means an individual or entity that is approved to offer continuing education courses pursuant to 50 Ill. Adm. Code 3119.

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

"FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

"General Agency" means an insurance agency that provides supervision on behalf of an insurer's sales force in a particular geographic region.

"Independent Agency" means an insurance agency comprised of independent contractors who sell insurance with one or more insurers.

"Insurance Producer" means a person or entity required to be licensed under the laws of this State to sell, solicit, or negotiate insurance, including annuities. For purposes of this Part, "Insurance Producer" includes an insurer where no person or entity is involved.

"Insurer" means an entity required to be licensed under the laws of this State to provide insurance products, including annuities.

"Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s annuities by insurance producers.

"Material conflict of interest" means a financial interest of the insurance producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. "Material conflict of interest" does not include cash compensation or non-cash compensation.

"Non-cash compensation" means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support, and retirement benefits.

"Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest-based credits, charges, or elements of formulas used to determine any of these elements, that are subject to insurance company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

"Recommendation" means advice provided by an insurance producer, or an insurer when no insurance producer is involved, to an individual consumer that was intended to result or does result in a purchase, exchange, or replacement of an annuity in accordance with that advice. "Recommendation" does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

"Replacement" means any transaction in which a new annuity will be purchased, and it is known or should be known to the proposing insurance producer, or to the proposing insurer if there is no insurance producer involved, that because of the transaction an existing annuity or other insurance policy has been or is to be any of the following:

Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;

Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

Amended to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

Reissued with any reduction in cash value; or

Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25% of the loan value set forth in the policy.

"Replacing Insurer" means the insurance company that issues a new annuity which is a replacement of an existing policy or contract.

"SEC" means the United States Securities and Exchange Commission.

(Source: Amended at 47 Ill. Reg. 2312, effective February 3, 2023)