

WAC 460-20C-200 Deferred variable annuities. It constitutes a dishonest or unethical business practice for the purposes of RCW 21.20.110 (1)(g) for a broker-dealer or salesperson registered or required to be registered under RCW 21.20.040 to recommend the purchase or exchange of a deferred variable annuity unless the following requirements are met:

(1) The broker-dealer and salesperson must have reasonable basis to believe that the transaction is suitable for the customer; and, in particular:

(a) The broker-dealer and salesperson must have reasonable basis to believe that the customer has been informed, in general terms, of various features of variable annuities, including the following:

- (i) The potential surrender period and surrender charge;
- (ii) The potential tax penalty if customers sell or redeem deferred variable annuities before reaching the age of 59 1/2
- (iii) Mortality and expense fees;
- (iv) Investment advisory fees;
- (v) The potential charges for and features of riders; and
- (vi) The insurance and investment components of deferred variable annuities; and
- (vii) Market risk;

(b) The broker-dealer and salesperson must have reasonable basis to believe the customer would benefit from certain features of deferred variable annuities, such as tax-deferred growth, annuitization, or a death or living benefit; and

(c) The broker-dealer and salesperson must have a reasonable basis to believe that the particular deferred variable annuity as a whole, the underlying subaccounts to which funds are allocated at the time of the purchase or exchange of the deferred variable annuity, and the riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also suitable) for the particular customer based on the information required by subsection (3) of this section;

(2) In the case of an exchange of a deferred variable annuity, the exchange also must be consistent with the suitability determination required by subsection (1) of this section taking into consideration whether:

(a) The customer would incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees or charges (such as mortality and expense fees, investment advisory fees, or charges for riders and similar product enhancements);

(b) The customer would benefit from product enhancements and improvements; and

(c) The customer has had another deferred variable annuity exchanged within the preceding 36 months.

The salesperson making the recommendation must document and sign the determinations required by this subsection;

(3) Prior to recommending the purchase or exchange of a deferred variable annuity, the broker-dealer or salesperson must make reasonable efforts to obtain, at a minimum, information concerning the customer's age, annual income, financial situation and needs, investment experience, investment objectives, intended use of the deferred variable annuity, investment time horizon, existing assets (including investment and life insurance holdings), liquidity needs, liquid net

worth, risk tolerance, tax status, and such other information used or considered to be reasonable in making recommendations to customers;

(4) Prior to recommending the purchase or exchange of a deferred variable annuity to a retail customer, the broker-dealer or salesperson must make inquiry regarding other reasonably available securities and investment strategies offered by the broker-dealer that could achieve the retail customer's investment objectives;

(5) Promptly after receiving information necessary to prepare a complete and correct application package for a deferred variable annuity, the salesperson who recommends the deferred variable annuity must transmit the complete and correct application package to a principal for review;

(6) The principal must review and approve the transaction. The principal may approve the transaction only if the principal has determined that there is a reasonable basis to believe the transaction would be suitable based on subsections (1) and (2) of this section;

(7) The broker-dealer must have established and maintained written supervisory procedures reasonably designed to achieve the standards set forth in this section. The broker-dealer must (a) implement surveillance procedures to determine if any of its salesperson have rates of effecting deferred variable annuity exchanges that raise for review whether such rates of exchange evidence conduct inconsistent with this section or federal or state securities laws and (b) have policies and procedures reasonably designed to implement corrective measures to address inappropriate exchanges and the conduct of its salespersons who engage in inappropriate exchanges; and

(8) The broker-dealer must have developed and documented specific training policies or programs reasonably designed to ensure that salespersons who effect and principals who review transactions in deferred variable annuities comply with the requirements of this section and that they understand the material features of deferred variable annuities.

[Statutory Authority: RCW 21.20.070 and 21.20.450. WSR 24-19-055, s 460-20C-200, filed 9/12/24, effective 10/13/24.]