

Foresters Financial DOL Implementation FAQ

What is Foresters approach to the DOL Fiduciary Rule?

The Independent Order of Foresters (“Foresters”) recognizes the complexities and to some degree uncertainties regarding the DOL Fiduciary Rule – however, our focus is on how best we can support you in these uncertain times.

With that in mind, our approach is based on simplicity, support and service for our distribution partners and agents, while protecting consumers as intended by the portions of the DOL rule that are effective June 9, 2017, as well as the PTE 84-24 exemption requirements that already exist.

BRIEF BACKGROUND

How is an insurance agent or insurance agency selling life insurance and annuity products subject to the DOL fiduciary rule?

For purposes of Foresters position on the DOL rule and in light of our current product offerings, you become a fiduciary as an agent or agency when the source of funds to pay for Foresters life insurance or in-force annuity arises from a “covered transaction”. In such transactions, you must act in the client’s best interest, not receive more than reasonable compensation and all statements to the client regarding products, material conflicts of interest, fees and other relevant matters must not be materially misleading.

What is considered a “covered transaction” when selling or funding Foresters insurance products?

We looked at our current product offerings as well as the markets in which our distributors and agents sell and have concluded that, at this time, a very small percentage of our overall business will potentially be subject to the DOL rule.

Having said that, there are still situations where the DOL fiduciary rule will apply, primarily due to the source of funds for the premium.

With our focus on the source of funds, the sale of a Foresters life insurance product is considered a covered transaction if:

- the source of funds to pay, in full or in part, the premium for the insurance product, is from a “covered product” and
- You advised or suggested to the consumer, directly or indirectly, whether orally or in writing that they use this source of funds to pay premium for the insurance product (this is described as providing investment advice).

This would include putting monies into an existing annuity or a premium deposit fund to be applied, in the future, as premium or otherwise, regardless of whether the monies are actually applied as such or subsequently withdrawn.

* Note that there are other products and scenarios to which the DOL rule applies, such as the sale of securities as well as the sale of life insurance and annuities into ERISA plans or IRAs that this FAQ is not intending to address. Please contact us before selling Foresters products into these plans or IRAs.

What is a “covered product”?

A covered product involves monies from a retirement vehicle, such as an IRA (including required minimum distributions), 401(k), 403(b), or any pension or health plans as defined by the ERISA guidelines. This would include triggering, or recommending using upcoming, Required Minimum Distributions (“RMDs”) to pay premium.

What is considered “investment advice”?

Under the DOL ruling you have given investment advice if you made a recommendation to your client to use a transfer, rollover, distribution or withdrawal from a retirement plan or IRA to fund all or part of a life insurance or annuity product or you recommend buying an annuity within an IRA.

What is “best interest”?

Transactions subject to the DOL fiduciary rule must be in the best interests of the consumer. This means that one “...acts with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, based on the investment objectives, risk tolerance, financial circumstances and needs of the Plan or IRA, without regard to the financial or other interests of the fiduciary, any affiliate or other party.”

COMPLIANCE WITH FORESTERS

Will Foresters accept business where the DOL rule applies?

Yes! Provided the requirements described below are followed we will accept paper applications* for the following non-medical¹ and fully underwritten products:

- SMART Universal Life
- Advantage Plus whole life

*not available through e-App²

What about sales involving PlanRight, Prepared Accidental Death and term products?

With these products we believe it is highly unlikely that premiums will be funded from a source that triggers the DOL rule. In the unlikely event that premiums for PlanRight, Prepared, or any of our term products are to be sourced from a “covered product”, **please do not complete, or submit, the application.** As mentioned, we believe this position will have virtually no impact on the applications you send to Foresters for these specific products and eliminates the need for you to complete additional disclosure forms or gather additional information.

What am I required to do to be compliant with Foresters requirements?

When taking an application and you determine the source of funds is NOT from a covered product:

- Nothing further is needed. Simply submit the application via e-app or paper.

When taking a new Foresters life insurance application or submitting a check on behalf of your client to be applied as premium for an in-force Foresters life insurance product, annuity or as a premium deposit fund and you determine the source of funds IS from a covered product:

- 1) For new sales, use the source of funds fields in the insurance application or if no such field use the Producer Comments section of the Producer Report to identify the source of funds (e.g. RMDs, from IRA).

2) For specific instructions on new or subsequent payments, when using the Check Submission Form (413509 US 03/16), Payment Designation Form (106004 US 04/17), or Payment Instructions Form (413510 US 03/16), use the Notes section in the applicable form to identify the source of funds.

Also, in the Producer Comments or Notes section of the applicable form referred to in 1) and 2) above: i) Confirm that you provided a compensation disclosure to your client, ii) explain why the transaction is in the client's best interest and iii) Confirm that you have obtained the client's written acknowledgement of receiving the compensation disclosure.

- Submit paper application and related documents.

You must keep the compensation disclosure and acknowledgement for 6 years and be able to make it accessible to the DOL upon request.

Annual Certification

Toward the end of each year we will send a brief certification designed for you to confirm the following:

1. You did not send us applications for PlanRight, Accidental Death or a term product where the source of funds was from a 'covered product'.
2. For other Foresters life insurance product sales involving funds from a covered product you provided the required information to Foresters (indicated source of funds, confirmed compensation disclosure to your client and that the transaction was in the client's best interest). This annual certification will pertain to:
 - new sales
 - conversions
 - premium deposit funds
 - money sent in, with your involvement, on an in-force certificate or annuity
3. You have kept the compensation disclosure and the client's written acknowledgement and will retain it in your files for at least 6 years from the applicable transaction.

What if my agency already has DOL compliance forms and processes?

We would be happy to discuss another preferred approach to DOL compliance. Our goal is to collaborate with you, particularly if you have already created standard forms or processes that you wish to use across the multiple carriers to whom you submit business. Please send an inquiry to askcompliance@foresters.com and we will respond to you to discuss.

Could marketing materials, training or sales tools be considered as providing investment advice?

Yes, depending on the content. For that reason, Foresters has reviewed its marketing and related materials and revised any of the content that may be construed as providing investment advice. If you use only Foresters approved marketing and sales material in the sale of Foresters insurance products, then you do not risk using materials that may be construed as providing investment advice.

Keep in mind that, per current advertising requirements, any materials used by you that was not provided by Foresters requires review and approval by Foresters if it has the Foresters name or refers to Foresters products.

What else is Foresters doing in relation to DOL?

Foresters will monitor and consider developments and will update or supplement our materials, including additional training opportunities, as necessary.

If your agency or upline does not have a generic disclosure form we will soon be posting on ezbiz a Foresters-specific compensation disclosure for your use.

What if I have questions not covered in this FAQ piece?

Please reach out to us using our dedicated askcompliance@foresters.com mailbox and periodically check our ezbiz site as new materials are posted.

We also recommend LIMRA's DOL microsite www.limra.com/dol/ for up to the minute news.

¹ Insurability depends on answers to health and lifestyle questions and an underwriting review.

² e-App is available in all states through the iPipeline iGO e-App platform using Internet Explorer (desktop/laptop) or Safari (Apple iPad only) for Foresters non-medical products (excluding Foresters PlanRight and Foresters Prepared). Touch to sign available on Apple iPad only. POS decision will be unavailable Monday to Saturday from 2:00 a.m. to 6:00 a.m. and from Saturday 10:00 p.m. to Sunday 10:00 a.m. (EST). Some e-App features are not available in NY (refer to ezbiz, Toolbox/e-App section for more details).