



A SELF-ASSESSMENT CHECKLIST FOR FINANCIAL PROFESSIONALS



*Those who understand the
rules they must follow are best
positioned to succeed.*



—MAUREEN JAMES, SUMMIT COMPLIANCE GROUP, LLC

THE REGULATORY ENVIRONMENT for insurance and investment professionals is complex and ever-changing. Those who understand the rules they must follow are best positioned to succeed. Those who are indifferent, however, are gambling with the future of their livelihood. Luckily, compliance does not have to be scary. At Summit Compliance Group, we specialize in making compliance simple and affordable. To help you get started, we have created this self-assessment checklist. By completing this checklist, you will have greater insight into the potential risks that you face so that you can tackle them in a practical, thoughtful manner.

A compliance self-assessment involves personally reviewing and identifying your own compliance risk. Every producer's business is different, and therefore the risks you face may also vary. As a result, the solutions that apply to your business will be unique. While

a comprehensive assessment of any and every risk you may face is not practical via a checklist, this document focuses on items that present a higher degree of risk in nearly all businesses. By beginning with the potential risks outlined here, you have valuable information that we can use to create a Compliance Blueprint for your business.

As you conduct this exercise, take your time and do a thorough assessment. Don't be tempted to automatically assume that you're doing things "the right way" or you may risk an important opportunity to protect your business. Going through the motions in an attempt to complete the process quickly can create a sense of false confidence and could have disastrous consequences.

Please read the questions below along with the additional explanation and check the response that accurately reflects your business.

	QUESTION	EXPLANATION	Y/N
1	<p>Are you familiar with the requirements within the compliance guides from the insurance carriers with whom you do business?</p>	<p>Many insurance carriers make their requirements known to their producers by publishing a compliance guide that lists prohibited activities, the insurance carrier's rules that must be followed, etc. Many of these requirements follow state insurance laws/regulations, but some are specific to individual insurance carriers. Failure to follow the requirements in the compliance guide can lead to termination of a producer's appointment.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO
2	<p>If you utilize any third-party advertising (lead generation, social media, website, seminars, etc.), do you ensure any materials created and/or distributed on your behalf is reviewed by an insurance compliance expert prior to use?</p>	<p>State insurance regulators require that any advertising used or sent on behalf of a licensed insurance agent comply with all applicable advertising regulations, regardless of who developed or distributed the content. You, the licensed producer, are responsible for ensuring such advertising complies under the state advertising regulations.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO
3	<p>Do you have your advertising (website, seminar, mailers, radio shows, sales software, flyers, brochures, charts, graphs, social media, etc.) reviewed by an insurance compliance expert prior to use?</p> <p>If you get marketing content from your IMO, are you confident that these materials have undergone an expert compliance review?</p>	<p>One of the most common ways that a producer comes under the scrutiny of a regulator is through their advertising (sometimes through a complaint from a competing producer). Regulators receive mailers, listen to radio shows, visit websites, etc. and can evaluate the advertising from a compliance perspective. Once an investigation begins, other aspects of a producer's business (sales practices, data security/privacy, etc.) can be included in the investigation.</p> <p>Producers should have all their advertising reviewed by an insurance compliance expert prior to use to reduce the risk of regulatory enforcement actions (loss of license, fines, etc.), loss of insurance carrier appointments, commission chargebacks, and other negative consequences. Insurance compliance can be quite different from investment adviser compliance or broker-dealer compliance, so it is critical to engage with someone with the right compliance background.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	QUESTION	EXPLANATION	Y/N
4	Do you avoid any sales methods that could be considered pretext selling?	<p>A concern identified by many regulators is the failure of insurance agents to clearly identify themselves and to deliberately camouflage the ultimate reason for contacting a prospective consumer. Broadly speaking, pretext selling can be described as a sales/marketing practice by an insurance agent through which the true purpose of a piece of advertising (such as a lead card mailer), financial education class, seminar, workshop, meeting or appointment is disguised through the use of subject matter other than the potential sale of insurance products, particularly in marketing materials such as lead cards and seminar invitations; and/or, the true identity of the agent as a person engaged in the sale of insurance products is not disclosed, and some alternative description is used that could mislead a consumer into believing that an agent is an “advisor,” “consultant,” “planner,” “senior specialist,” or similar term unrelated to insurance sales.</p> <p>Types of subject matter often involved in pretext selling include, but are not limited to:</p> <ul style="list-style-type: none"> ▶ Living trusts ▶ Tax preparation ▶ How to avoid probate ▶ How to reduce taxes on Social Security benefits ▶ How to maximize Social Security benefits ▶ Medicaid planning ▶ Roth conversions ▶ Financial education classes, workshops, or seminars <p>Pretext selling would likely violate state laws/regulations and also be a violation of many insurance carriers’ policies.</p> <p>Producers should review their business model and sales practices to determine if a regulator could view them as pretext selling.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO

QUESTION	EXPLANATION	Y/N
5	<p>Do you follow the limitations of the license(s) you hold (insurance, Series 65, etc.)?</p> <p>Do you use the correct titles and descriptions of your services when dealing with consumers? For example, if you are insurance-only licensed, do you use the title “Insurance agent” or “licensed insurance professional”? Keep in mind that only a Series 65 Investment Adviser Representative may use the titles advisor, financial advisor, planner, retirement planner, wealth manager, and other advisory-related titles.</p> <p>Do you provide investment advice such as recommending the purchase, holding, or sale of a securities product, recommending a specific allocation among asset classes, recommending the rollover of a 401k or other pension plan, discussing the characteristics of a specific securities product, etc.? Do you describe your services as “planning” services, such as “financial planning” or “retirement planning”?</p> <p>These activities typically constitute providing investment advice. You may provide investment advice only if you have passed the applicable examination and are appropriately registered with the state securities department or the Securities and Exchange Commission (SEC).</p> <p>Providing investment advice without the proper licensure and registration is a violation of state and/or federal laws and can lead to criminal charges among other sanctions.</p> <p>Insurance-only licensed producers should avoid providing investment advice (sometimes referred to as “source of funds”). The state of Iowa in particular has provided guidance on what types of activities are permissible for an insurance-only licensed producer. That guidance can be found here. Keep in mind that this guidance applies in the state of Iowa, but it also provides some education for producers as to how other states may view the issue.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	QUESTION	EXPLANATION	Y/N
6	Have you identified, and avoided or mitigated, all conflicts of interest?	<p>It is important for producers to realize that various agreements or transactions they might want to engage in with consumers may be inappropriate or even unlawful. Although it is fundamental that producers act in the interests of the consumer when selling insurance products, some producers may not recognize how important it is to avoid both apparent and potential conflicts of interest.</p> <p>There are many potential conflicts that could come into play, such as:</p> <ul style="list-style-type: none"> ▶ giving or receiving loans with the consumer ▶ acting as an investment adviser with the consumer (dually licensed professional) ▶ acting as an attorney, CPA, or other professional with the consumer ▶ being listed on the annuity contract as an owner, beneficiary, etc. ▶ other types of business dealing with the same consumer (gold, real estate, business partnership, etc.) <p>Conflicts of interest have become of more concern to regulators as the standard of care applied to some sales has increased due to new regulations. Producers should ensure that this risk is properly addressed or consult with a compliance expert to assist with identifying and avoiding or mitigating all conflicts of interest.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO
7	Do the gifts, events, and all other things of value you provide to clients comply with the applicable state rebating & inducement regulations?	<p>A rebate or inducement generally involves the return of value of any kind to the consumer in connection with the purchase of insurance. Gifts or consumer appreciation events may qualify as a rebate or sales inducement. Rebating is prohibited or severely limited in nearly all states and many insurance carriers prohibit it.</p> <p>Transactions that may be considered a rebate include, but are not limited to:</p> <ul style="list-style-type: none"> ▶ Gifts or appreciation events (some states have exceptions based on the value) ▶ Gourmet meals provided during dinner seminars ▶ Payment of all or a portion of commissions earned ▶ Payment by the agent or agency of any premium ▶ Refunds of premiums <p>Producers should have an insurance compliance expert examine their practices to determine if they are violating any rebating regulations or insurance carrier prohibitions.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	QUESTION	EXPLANATION	Y/N
8	Do you have reasonable measures in place to safeguard client information?	<p>One of the largest risks for a producer is a data breach or the loss of clients' non-public information (NPI). The unauthorized exposure of client data could have regulatory, legal, and reputational implications resulting in the loss of existing and future clients, along with the loss of insurance carrier appointments.</p> <p>Some producers may be required by state regulations to have security protocols in place. Independent producers may find that insurance carriers will begin to require certain protocols for producers to remain appointed with them.</p> <p>Producers should have a data security assessment performed by cybersecurity experts to help ensure the security of NPI. The assessment should conform to an established framework such as NIST.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO
9	Are you prepared to comply with the higher standard of care that is being imposed on producers for the sale of annuities and life insurance?	<p>There are many laws/regulations being enacted and proposed that impose a higher standard of care (best interest standard or fiduciary standard) for the sale of certain products. These higher standards of care may require substantial changes to a producer's business model and sales practices.</p> <p>For example, recent changes to the NAIC Suitability in Annuity Transactions Model Regulation now require adherence to 4 crucial obligations: <i>Care, Disclosure, Conflict of Interest, and Documentation</i>.</p> <p>Along with a thorough understanding of the requirements, it is imperative that producers evaluate their business to determine if they are meeting the higher standard of care. (One of the most critical elements is documentation. Documentation can be one of the best defenses for a producer because it can provide the evidence that compliance was achieved. However, if improperly done, documentation can work against the producer).</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO
10	Do you have a reliable source for regulatory updates, compliance training, and regulatory guidance?	<p>The regulatory environment is constantly changing, and new requirements can be burdensome. Ignorance will not be a valid excuse for regulators, so it is vital that producers have a trustworthy source for updates, training, and guidance. If you don't have someone or someplace you can count on to answer your compliance questions, provide you with updates on regulations affecting your business, and more, you are placing your livelihood at risk.</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO

Once you have completed this Self-Assessment, review your responses. If you answered “No” to any of these questions – or if you are unsure what the correct answer is as it pertains to your business, you are likely exposing your business to unnecessary compliance and regulatory risks.

SUMMIT COMPLIANCE GROUP CAN HELP.

At Summit Compliance Group, we offer our Distribution Partners expert guidance and services to help manage your compliance risks in a practical, easy manner. Your business is unique, and so are our services. We don't offer a cookie-cutter approach to compliance. We tailor compliance solutions that make sense for you and your business. From Advertising Compliance, to Sales Compliance Training, Cybersecurity, Best Interest Solutions and more, our solutions are SIMPLE AND AFFORDABLE!

LEARN HOW CAN HELP YOU PROTECT YOUR PRACTICE.

SEE OUR FULL LIST OF SERVICES AT WWW.SUMMITCOMPLIANCEGROUP.COM, OR CALL US AT 612.308.6161.

The information in this self-assessment is intended to provide general information and is not intended to, nor does it, address all compliance risks. Individual situations will vary and must be examined and addressed on a case-by-case basis. The content is believed to be accurate as of the date written but is not guaranteed. Nothing in this self-assessment should be considered legal advice. Neither Summit Compliance Group, LLC, nor its members, owners, employees, or contractors provide legal advice. You should seek legal advice from your attorney.



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so you can grow your business

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