



June 18, 2018

New York State Department of Financial Services
Attn: Mr. James V. Regalbuto
Deputy Superintendent for Life Insurance, Life Bureau
One State Street
New York, NY 10004-1511
james.regalbuto@dfs.ny.gov

RE: Public Comment on Updated Proposed Amendments to Insurance Regulation 187 (Suitability in Life Insurance and Annuity Transactions), I.D. No. DFS-52-17-00020-RP

Dear Deputy Superintendent Regalbuto and NYDFS Staff:

The Financial Planning Coalition (Coalition)¹ – comprised of Certified Financial Planner Board of Standards (CFP Board),² the Financial Planning Association® (FPA®),³ and the National Association of Personal Financial Advisors (NAPFA)⁴ – appreciates the opportunity to comment on the revised proposed amendments to Insurance Regulation 187, announced in the April 27, 2018 press release.⁵

The Coalition thanks the New York Department of Financial Services (NYDFS) for taking into consideration the fiduciary standard of care found in CFP Board's revised *Code of Ethics and Standards of Conduct (Standards)*.⁶ The *Standards*, which were finalized in March and endorsed by FPA and NAPFA, will become effective on October 1, 2019.

¹ The Coalition is a collaboration of the leading national organizations representing the development and advancement of the financial planning profession.

² CFP Board is a non-profit certification and standard-setting organization, which sets competency and ethical standards for approximately 81,000 CERTIFIED FINANCIAL PLANNER™ professionals throughout the country. CFP® professionals voluntarily agree to comply with CFP Board's rigorous standards including education, examination, experience and ethics, and subject themselves to disciplinary oversight of CFP Board.

³ FPA® is the largest membership organization for CFP® professionals and those who support the financial planning process in the U.S. with over 23,000 members nationwide. With a national network of 88 chapters and state councils, FPA® represents tens of thousands of financial planners, educators and allied professionals involved in all facets of providing financial planning services. FPA® works in alliance with academic leaders, legislative and regulatory bodies, financial services firms and consumer interest organizations to represent its members.

⁴ NAPFA is the nation's leading organization of fee-only comprehensive financial planning advisors with more than 3,000 members nationwide. NAPFA members are highly trained professionals who adhere to high professional standards. Each NAPFA advisor annually must sign and renew a Fiduciary Oath and subscribe to NAPFA's Code of Ethics.

⁵ NYDFS, "DFS Issues Updated Proposed Life Insurance and Annuity Suitability Regulation Requiring a Best Interest Standard to Protect Consumers from Conflicted Advice" (Apr. 27, 2018), available at <https://www.dfs.ny.gov/about/press/pr1804271.htm>.

⁶ *Standards*, available at <https://www.cfp.net/docs/default-source/for-cfp-pros---professional-standards-enforcement/CFP-Board-Code-and-Standards>; Commentary to *Standards*, available at <https://www.cfp.net/docs/default-source/for-cfp-pros---professional-standards-enforcement/CFP-Board-Code-and-Standards-with-Commentary>.

As stated in our previous letter,⁷ the Coalition supports the NYDFS' proposal to add consumer protections that would prohibit an producer from stating that a recommendation is part of financial or investment planning unless the producer has a specific certification or professional designation in that area. However, as currently revised, Section 224.4(i)⁸ remains lacking in clarifying the importance of accredited certification-granting organizations.

Specifying accredited credentialing organizations in Section 224.4(i) would help bring strength and clarification to the financial advice being offered to New York's retail investors. According to the Financial Industry Regulatory Authority (FINRA), consumers face more than 180 professional designations used by financial services professionals.⁹ Not all designations are backed by rigorous education, examination, experience, and ethics requirements, resulting in investor confusion and reliance on often misleading designations that are no more than a string of letters behind a professional's name. Accreditation ensures that a credentialing body offers a solid foundation supporting its designation.

CFP Board's CFP® certification process, for example, is accredited by the National Commission for Certifying Agencies (NCCA). The NCCA standards require demonstration of a valid and reliable process for development, implementation, maintenance, and governance of certification programs. The CFP® certification is one of only six financial services designations accredited by NCCA.

Because of the importance of accreditation, the Coalition again proposes to limit certifications and professional designations to only those that are granted by **accredited** certifying bodies and, at a minimum, include rigorous ethical and professional standards, thorough education and examination requirements to first obtain the designation, and ongoing continuous education requirements to maintain the certification.

The Coalition appreciates the opportunity to comment on the NYDFS proposed regulatory revised amendments. If you have any questions regarding this comment letter or the Coalition, please contact Maureen Thompson, Vice President of Public Policy, CFP Board, at (202) 379-2281 or mthompson@cfpboard.org.

Sincerely,



Kevin R. Keller, CAE
Chief Executive Officer
CFP Board



Lauren Schadle, CAE
Executive Director/CEO
FPA®



Geoffrey Brown, CAE
Chief Executive Officer
NAPFA

⁷ Coalition letter to NYDFS, dated Feb. 26, 2018, *available at* <http://financialplanningcoalition.com/wp-content/uploads/2018/02/2018-2-26-FPC-COMMENT-LETTER-NYDFS-FINAL.pdf>.

⁸ Updated Proposed Amendments to Insurance Regulation 187, at p. 8, *available at* https://www.dfs.ny.gov/insurance/r_prop/rp187.text.pdf ((i) A producer shall not state or imply to the consumer that a recommendation to enter into a sales transaction is financial planning, comprehensive financial advice, investment management or related services unless the producer has a specific certification or professional designation in that area. A producer shall not use a title or designation of financial planner, financial advisor or similar title unless the producer is properly licensed or certified and actually provides securities or other non-insurance financial services.)

⁹ FINRA, "Professional Designations," *available at* <https://www.finra.org/investors/professional-designations>.