

Fiduciary 3.0 Proposal – PTE Comparison Chart

Note: Green tiles indicate where they are similar and red where they differ.

As we read it today, any producer/financial security professional seeking to use 84-24 who fails to meet any of the conditions would be forced to try and comply with 2020-02 or forgo serving their client.

	PTE 84-24	PTE 2020-02
Career Agents	No	Yes
Independent Producers	Yes, but not all	Yes, but only feasible in some situations

	PTE 84-24	PTE 2020-02
Fiduciary Status	Producer required to acknowledge fiduciary status in writing to client.	Producer required to acknowledge fiduciary status in writing to client.
Co-fiduciary Status	Carrier of the policy the producer recommends is not a co-fiduciary for the recommendation, but has increased supervision requirements	Carrier of the policy the producer recommends is a co-fiduciary for the recommendation, must adopt policies and procedures governing the producer’s recommendation process
Limited Definition of “Independent Producer”	Only for producers meeting new “Independent Producer” definition: <ul style="list-style-type: none"> • producer licensed by the state to sell insurance products, • Offering products from two or more carriers with which the producer is otherwise unaffiliated. • Cannot be an employee of an insurer (including statutory employees under Sec.3121). 	May be used by financial professionals representing a “financial institution” defined as an insurance company, registered investment advisor, broker-dealer, or banks/trust.
Compensation Limits and Restrictions	Only permits an “Insurance Sales Commission” defined as: <ul style="list-style-type: none"> • paid by the carrier or its affiliate to the Independent Producer, includes renewal and trailing fees. • Must be reasonable • <u>Does not permit</u> revenue sharing payments, administrative fees or marketing payments, “any 	Permits any reasonable amount and form of compensation, subject to mitigation and disclosure requirements.

	other similar fees,” or payments from other entities (intermediaries may pass through commissions from carriers).	
Limited Products	Only permits recommendations of <u>non-security insurance and annuity products</u> not regulated by the SEC—variable annuities/variable life not eligible.	Any investment open to ERISA plans and IRAs (including annuities and insurance contracts).
Impartial Conducts Standards	<p>The producer must:</p> <ul style="list-style-type: none"> • make a best interest recommendation, • receive only reasonable compensation (consistent with the limit above), • cannot make any materially misleading statements (including omission) <p>These standards apply in addition to and simultaneously with state insurance laws and requirements (including the NAIC Model rule best interest standard adopted in most states).</p>	<p>The producer must:</p> <ul style="list-style-type: none"> • make a best interest recommendation, • receive only reasonable compensation; • cannot make any materially misleading statements (including omission) <p>These standards apply in addition to and simultaneously with any Federal or State securities, insurance, and banking laws and regulations applicable to the financial professional (including the NAIC Model rule best interest standard adopted in most states).</p>
Reporting & Disclosure	<p>In addition to state requirements, a comprehensive structure of disclosure obligations, including:</p> <ul style="list-style-type: none"> • specific analysis and disclosure requirements related to rollover recommendations • a written statement of the best interest standard • a written description of the services the producer will provide and the products the producer is licensed and authorized to sell • a written statement of the producer’s material Conflicts of Interest • a written statement of the amount of the Insurance Sales Commission that will be paid 	<p>In addition to other Federal and State requirements that may apply (such as Reg BI or Form CRS), a comprehensive structure of disclosure obligations, including:</p> <ul style="list-style-type: none"> • specific analysis and disclosure requirements related to rollover recommendations • a written statement of the best interest standard • a written description of the services the financial professional will provide • a written statement of the financial professional’s material Conflicts of Interest

	to the producer in percentages and dollars.	<ul style="list-style-type: none"> a written statement of the compensation the financial professional will receive.
Eligibility and Revocation	DOL may determine that a producer or carrier is ineligible to use the exemption based on past criminal activity (including that of affiliates in foreign countries) or for a pattern or practice of non-compliance.	DOL may determine that a financial professional or financial institution is ineligible to use the exemption based on past criminal activity (including that of affiliates in foreign countries) or for a pattern or practice of non-compliance.