

2020

CEFLI
VIRTUAL
SUMMIT
MEETING



2020 NAIC Suitability in Annuity Transactions Model Regulation
Session 5: Oversight and Supervision

cefli



COMPLIANCE & ETHICS FORUM FOR LIFE INSURERS

The CEFLI Virtual Summit Meeting consists of five sessions:

- Session 1: Emerging & Dynamic Sales Standards
- Session 2: Diving into Disclosures
- Session 3: Training Tactics and Tribulations
- Session 4: Insurer New Business Processes
- Session 5: Oversight & Supervision



All sessions address aspects of the 2020 NAIC Suitability in Annuity Transactions Model Regulation.

Session content (presentation and the recorded webinar) can be found on CEFLI's website (www.CEFLI.org).

Presenters



- **Kris Fischer**
Manager, Insurance Compliance & BD/IA Assessment Program
Thrivent Financial



- **Donald Walters** (co-moderator)
President & CEO
CEFLI



- **Dave Milligan**
AVP, Regulatory Compliance
American Equity Inv. Life Ins. Co



- **Carla Strauch** (co-moderator)
VP, Compliance & Ethics
CEFLI

Agenda

Oversight **AND** SUPERVISION

1. Overarching Supervisory Requirement
2. Training on the NAIC Model Requirements
3. Annuity Products and 4-Hour Training
4. An Insurer's Review of Recommendations
5. Providing Consumer Disclosures & Collecting Consumer Profile Information (**New**)
6. Contests, Quotas, & Non-cash Compensation (**New**)
7. Annual Report
8. Contracted Functions
9. Reliance on the Safe Harbor Provision
10. Final Thoughts

Supervisory Requirements of the Model Overarching Supervisory Requirement

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- Section 6.C.(2):

(2) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this regulation, including, but not limited to, the following:

Supervisory Requirements of the Model: Overarching Supervisory Requirement

Section 6. C. – Supervision system (2020 Model)

- (1) Except as permitted under Subsection B, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity **would effectively address the particular consumer's financial situation, insurance needs and financial objectives based on the consumer's consumer profile information.**
- (2) An insurer shall **establish and maintain** a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this regulation, including, but not limited to, the following:
 - (a) The insurer shall **establish and** maintain reasonable procedures to inform its producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant producer training manuals;
 - (b) The insurer shall **establish and maintain standards for** producer product training and shall **establish and** maintain reasonable procedures to require its producers to comply with the requirements of Section 7 of this regulation;
 - (c) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its producers;
 - (d) The insurer shall **establish and** maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that **the recommended annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives.** Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified additional review by the selection criteria;
 - (e) The insurer shall **establish and** maintain reasonable procedures to detect **recommendations that are not in compliance with Subsections A, B, D and E.** This may include, but is not limited to, confirmation of the consumer's consumer **profile information**, systematic customer surveys, producer and **consumer** interviews, confirmation letters, **producer statements or attestations** and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures, or by confirming the consumer **profile information or other required information under this section** after issuance or delivery of the annuity;
 - (f) The insurer shall **establish and maintain** reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this section;
 - (g) The insurer shall **establish and maintain** reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;
 - (h) The insurer shall **establish and maintain** reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time. [The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and
 - (i) The insurer shall annually provide a **written** report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

Supervisory Requirements of the Model: Training on the NAIC Model Requirements

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- Section 6.C.(2)(a):

(2)(a) The insurer shall **establish and** maintain reasonable procedures to inform its producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant producer training manuals;

Supervisory Requirements of the Model: Annuity Products & 4-Hour Training

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- Section 6.C.(2)(b) & (c):

(b) The insurer shall establish **and maintain standards for** producer product training and shall **establish and** maintain reasonable procedures to require its producers to comply with the requirements of Section 7 of this regulation;

(c) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its producers;

Supervisory Requirements of the Model: An Insurer's Review of Recommendations

Oversight
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- Section 6.C.(2)(d):

(d) The insurer shall **establish and** maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that **the recommended annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives**. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

Supervisory Requirements of the Model: An Insurer's Review of Recommendations

Oversight
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- Section 6.C.(2)(e):

(e) The insurer shall **establish and** maintain reasonable procedures to **detect recommendations that are not in compliance with Subsections A, B, D and E.** This may include, but is not limited to, confirmation of the consumer's consumer **profile information**, systematic customer surveys, producer and **consumer** interviews, confirmation letters, **producer statements or attestations** and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures, or by confirming the consumer **profile information or other required information under this section** after issuance or delivery of the annuity;

Supervisory Requirements of the Model: Providing Consumer Disclosures & Collecting Consumer Profile Information

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- Section 6.C.(2)(f) & (g): **NEW**

(f) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this section;

(g) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

Supervisory Requirements of the Model: Contests, Quotas, & Non-cash Compensation

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- Section 6.C.(2)(h): **NEW**

(h) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

Supervisory Requirements of the Model: Annual Report

Oversight
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- Section 6.C.(2)(i):

(i) The insurer shall annually provide a **written** report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

Supervisory Requirements of the Model: Contracted Functions

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- Section 6.C.(3)(b)(i) & (ii):

(b) An insurer's supervision system under this subsection shall include supervision of contractual performance under this subsection. This includes, but is not limited to, the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

Supervisory Requirements of the Model: Reliance the Safe Harbor Provision

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- Section 6.E.(1):

(E) Safe harbor.

(1) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this regulation. This subsection applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subsection shall limit the insurance commissioner's ability to investigate and enforce the provisions of this regulation.

Supervisory Requirements of the Model: Reliance the Safe Harbor Provision

- Section 6.E.(3)(a)&(b):

(3) For paragraph (1) to apply, an insurer shall:

(a) Monitor the relevant conduct of the financial professional seeking to rely on Paragraph (1) or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal [or state] securities laws using information collected in the normal course of an insurer's business; and

(b) Provide to the entity responsible for supervising the financial professional seeking to rely on Paragraph (1), such as the financial professional's broker-dealer or investment adviser registered under federal [or state] securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

Final Thoughts

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CEFLI values your feedback! Please complete the short (2-3-minute) survey located at:

<https://www.surveymonkey.com/r/CEFLISummit5>

The survey will remain open until June 1, 2020.

Thank you for your support of CEFLI.

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Compliance & Ethics Forum for Life Insurers

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