

Compliance Leadership Skills: Interacting with Regulators

CEFLI Annual Conference

Nashville, TN

September 11-13, 2019



Presenters

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TIAA Life Insurance Company – Overview

- We are a stock life insurance company organized under the laws of the state of New York on December 18, 1996.
- Wholly-owned subsidiary of TIAA, established in 1918 by Andrew Carnegie.
- Subject to regulation by the New York State Department of Financial Services as well as by the insurance regulatory authorities of all the states and certain other jurisdictions. Licensed to issue life insurance and annuity products in all 50 states and the District of Columbia.



TIAA Life Insurance Company – Overview (cont.)

- Our primary products are annuities, life insurance, funding agreements and separate account guaranteed interest contracts (“SAGIC”).
- TIAA provides retirement annuities and insurance coverage to educational, research and cultural institutions, as well as to other nonprofit organizations and certain governmental entities across the United States.
- Market primarily to the individuals who own retirement annuities or insurance policies issued by our parent, TIAA.



The Preparation Phase – Pre-Examination Letter and Request for Information

- **Do** provide information requested within a timely basis.
- **Don't** ignore it, forget about it or ask for an extension at the last minute.
- **Do** advise applicable business management immediately. **Don't** make it the sort of surprise that the business people typically despise.
- When responding to the Department, **do** ask for the immediate “dismissal” of any insurers that should not be subjected to the exam. **Don't** come to a last-minute realization that you need to request a dismissal.

The Preparation Phase – Pre-Examination Letter and Request for Information (cont.)

- **Do** prepare for the exam by compiling the statistical materials and documents requested.
- **Don't** waste the examiner's time by not having everything available when the exam starts since hourly exam rates can be steep.
- **Do** be understanding with impacted internal business people since the exam is likely to disrupt their operations and daily schedules. **Don't** berate, badger and hassle them, or impose unrealistic deadlines.

The Preparation Phase – Pre-Examination Letter and Request for Information (cont.)

- If the Department asks to perform the exam on-site at certain locations, **do** be as flexible as possible in agreeing to the request.
- **Do** make sure you evaluate the types of market conduct requirements with which your insurer will be asked to comply. **Do** review the applicable law in advance and assess the various regulatory and compliance requirements that will apply to your company.

The Preparation Phase – Pre-Examination Letter and Request for Information (cont.)

- **Do** discuss the exam fully with all affected personnel in advance of the arrival of the Department’s staff.
- **Do** dispel all myths and apprehensions about insurance department employees. Don’t create or compound a perception that most examiners are bland bureaucrats intent on “nit-picking” your organization to death.
- Finally, **do** request “reasonable” extensions from the Department when certain types of information or documentation cannot reasonably be retrieved within the given timeframes originally provided by the Department

The Examination Phase

- Often, examiners will be at your company for weeks – and sometimes months. **Do** provide them with supplies and a comfortable workspace. **Don't** direct the examiner to a dank, poorly lit hole-in-the-wall, or place them in an office that lacks privacy.
- **Do** be hospitable by identifying the location of the employee cafeteria, restrooms, inexpensive local restaurants, etc., and by introducing examiners to anyone within their immediate workspace. **Don't** just lead them to an office to be ignored. By welcoming examiners and trying to establish them as short-term members of the office, you will make everyone feel more comfortable.

The Examination Phase

- **Do** identify a primary contact person to coordinate the examiners' contact with others. **Do** make it someone who is located nearby and can be available and responsive to the examiner's needs and questions. **Don't** designate someone who is in another office, much less in another state.
- **Do** designate someone who has knowledge of the programs under scrutiny and the requisite authority to make decisions. **Don't** distribute decision-making authority among several people and allow them all to be involved in the exam. This can create confusion.
- **Do** designate a substitute for the primary contact person in case the first individual can no longer serve.

The Examination Phase

- **Do** respond to all requests for documentation and information quickly and accurately so as not to waste the examiner's time and your company's money. **Don't** delay or procrastinate. To delay may create the appearance of stonewalling at worst, confusion and disorganization at best.
- **Do** be honest and truthful when answering questions and producing documents. **Don't** attempt to “reconstruct” missing documentation. **Don't** try to conceal information or evade requests for information—you will ultimately be discovered! Your most important tools during an exam are integrity and credibility — don't lose them!

The Post-Examination Phase

- **Do** respond in a timely fashion to any post–exam timetables established by the examiner. **Don't** try to delay and drag out the remedial period in the hope of wearing the examiner down.
- When the first draft of the examiner's report is sent to you, **do** make recommendations to clarify any findings that are not entirely accurate or may be misleading.
- Some DOIs schedule face-to-face meetings at department headquarters. **Do** be prepared for these meetings by formulating a “Management Action Plan” (MAP) which describes the corrective compliance actions that have been implemented.

About American Fidelity

- We are a privately held, Oklahoma based company with Life, Health, and Accident insurer, BD, and broker affiliates in 49 states and Bermuda. We are a different opinion for employers and customers in our niche markets.
- Our dedication to Customers and Colleagues repeatedly earns recognition and accolades from industry and workplace ratings organizations:
 - A.M. Best “A+” rating since 1982
 - Ward’s 50© top performing life-health insurance companies

About American Fidelity

- Other Fortune Magazine Awards:
- Best Workplaces in Finance and Insurance
- Best Companies for Giving Back
- Best Workplaces for Women
- Best Workplaces for Diversity
- Best Workplaces for Millennials
- PEOPLE magazine's 50 Companies that Care
- Computerworld's Best Places to Work in IT
- Training Magazine's Training Top 125

Strategies for Effective Regulator Conversations

- Sometimes our interactions are not
 - Structured
 - At our control
 - Happy
- Now what?

Strategies for Effective Regulator Conversations

- Preparing The Field
 - Set internal expectations
 - Set responsibilities, identify the decision makers
 - Identity how and when updates internally are to be made
 - Identify the known unknowns and your path to knowledge

Strategies for Effective Regulator Conversations

- Preparing The Field
 - Should I seek an in-person meeting?
 - Should I bring a Business Executive?
 - How senior?
 - Should I hire counsel?
 - Local counsel?

Strategies for Effective Regulator Conversations

- KNOW WHO YOU ARE TALKING TO
- Before the trouble, build your network – it takes years.
- If the regulator is not in your network, try to build credibility through common associations or certifications.
- Gain intelligence via CEFLI and other industry groups
- Should you first communicate with your domicile state?
- Get the planned agenda if possible. You can also infer much from who is attending the meetings

Strategies for Effective Regulator Conversations

- KNOW WHAT YOU ARE TRYING TO ACHIEVE
- If the meeting is at your request, providing full context and supporting documents at the initial meeting will go far in building trust in your proposed remediation
- If it is a negotiation, have an idea of your initial position, possible fallbacks, and your bottom line
- Get the data

Strategies for Effective Regulator Conversations

- KNOW WHAT YOU ARE TRYING TO ACHIEVE
- Present solutions that anticipate regulator questions. Anticipate timelines. In the right circumstance, provide suggested consumer communications which could help the regulator deal with consumer questions.
- Present solutions which “self-regulate”. Consider the independent compliance monitor concept as you build your solution and incorporate elements of that concept in your solution.

Strategies for Effective Regulator Conversations

- AT THE MEETING
- Avoid open ended-questions, they produce open-ended responses.
- Always include the consumer's perspective.
- Don't expect discretion – justify it.

Strategies for Effective Regulator Conversations

- AT THE MEETING
- The person you are speaking with has a boss too – this is useful on a number of levels.
- Don't be ashamed of market reality. Explain it and don't assume the regulator understands it.
- Do not leave the meeting without agreement on deliverables

Strategies for Effective Regulator Conversations

- AT THE MEETING
- Don't overpromise. Identify and explain challenges up-front. It sets valid expectations and reduces the possibility of later blow-ups.

Strategies for Effective Regulator Conversations

- AFTER THE MEETING
- Document the deliverables
- A timely imperfect response is better than an untimely perfect response.
- Set realistic internal expectations. You can do everything right and still get a penalty.

Questions?



THE FORUM THAT CONNECTS.



Compliance & Ethics Forum for Life Insurers

www.cefli.org