

## Agenda

**CEFLI Compliance & Ethics Committee Meeting**  
**Wednesday, August 12, 2020**  
**2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT**  
**Dial In: (800) 239-9838**  
**Passcode: 5690858**

- I. Welcome and Introduction. Donald J. Walters**
  - A. Antitrust Statement.
- II. Approval of Minutes – July 15, 2020 Meeting. The Committee**
- III. Issues for Review. The Committee**
  - A. Coronavirus (COVID-19).

CEFLI's COVID-19 Networking Forum continues to meet every two weeks to explore various compliance-related issues associated with the COVID-19 pandemic. Our thanks to various members of the COVID-19 Networking Forum including Chad Eslinger of Voya Financial, Jason Broussard of American National and Laura Bullard of Foresters for their willingness to serve as moderators for our recent Networking Forum discussions.

The next meeting of the COVID-19 Networking Forum is scheduled to take place tomorrow, Thursday, August 13 at 3 PM EDT. Please contact Nancy Perez ([NancyPerez@cefli.org](mailto:NancyPerez@cefli.org)) to let us know if you or your colleagues may be interested in participating in the COVID-19 Networking Forum.

Members of the Networking Forum have raised a variety of different issues for discussion. Recent questions have explored practices associated with sending lapse notices to consumers and whether insurers have seen any increase in requests to reinstate policies. Also, the Networking Forum examines issues associated with the issuance of bulletins by various jurisdictions establishing a moratorium on cancellation of policies for non-payment of premium and the operational issues that may arise accordingly.

The Networking Forum also continues to discuss “return to work” strategies to allow individuals who may have been working from home to return to the office to support their normal pre-COVID-19 routines.

CEFLI Affiliate Member Wolters Kluwer provides a free daily email that outlines significant COVID-19 related regulatory changes. For those who may be interested, the link to sign up can be found [here](#).

***The Committee will be asked to discuss any operational compliance challenges associated with issues arising out of the COVID-19 pandemic. Also, the Committee will be asked to discuss whether their companies have announced plans regarding “return to work” strategies over the weeks and months ahead.***

B. Appropriate Sales Practices and Licensing Requirements in a Virtual Environment.

The COVID-19 pandemic has introduced a unique business environment in which producers may interact with consumers via virtual media.

Given the challenges associated with a new business environment for life insurance and annuity sales, industry observers (including life insurance companies as well as regulators) have been monitoring sales activity to determine whether sales are being conducted in an appropriate manner. For example, some industry observers were anticipating an increase in replacement activity which reportedly has not taken place.

In addition, given the ease through which sales conducted via virtual media may be transacted across multiple jurisdictions, concerns were presented with respect to whether producers were obtaining the appropriate licensing requirements in order to be able to transact business lawfully in various states.

***The Committee will be asked to discuss whether they have observed any trends with respect to possible inappropriate sales activities (e.g., increase replacement activity) or instances of non-compliance with licensing requirements in light of conducting business virtually in a COVID-19 pandemic environment.***

C. FINRA Rule 4530(d) - Reporting of Written Customer Complaints.

FINRA Rule 4530(d) requires firms to report quarterly statistical and summary information regarding written customer complaints. FINRA uses the information to identify and initiate investigations of firms, offices and associated persons that may pose a risk as part of FINRA’s risk-based approach to regulation. The complaints are part of a firm’s Risk Monitoring Report Cards.

Questions have been presented regarding the practices of broker-dealers with respect to filing Rule 4530(d) reports with FINRA. Specifically:

- *Do broker-dealers that are principal underwriters for variable contracts issued by affiliated insurance companies file Rule 4530(d) reports with FINRA?*
- *If so, are servicing complaints related to variable contracts (such as allegations that a financial transaction was incorrectly processed) included as part of a firm's Rule 4530(d) reports?*

***The Committee will be asked to discuss their practices with respect to filing FINRA Rule 4530(d) reports with respect to written customer complaints.***

D. Oregon ORS 646A.620 - Social Security Numbers.

Several months ago, the Committee explored the enactment of legislation in the State of Oregon designed to protect identity theft by prohibiting, among other matters, the printing of a consumer's Social Security number on any materials not requested by the consumer or as part of any documentation of a transaction or service requested by the consumer, unless the consumer's Social Security number was redacted. (See, ORS 646A.620 attached.)

When this legislation was introduced, several questions arose with respect to its application to the life insurance industry. The ACLI reportedly entered into discussions with the Oregon Division of Financial Regulation to clarify the application and scope of the law's requirements.

Since that time, insurers have taken steps to comply with Oregon's law prohibiting the identification of a consumer's Social Security number on any materials not requested by the consumer or as part of any documentation the consumer requested for a transaction or service, unless the Social Security number was redacted.

The Committee has received a request to revisit this issue with a view toward determining the compliance strategies companies have implemented to comply with the requirements of this unique Oregon law.

Questions presented include the following:

- *Are life insurers mailing the full policy (including the application) to all customers?*
- *If so, is the customer's social security number being redacted from the application?*
- *Are Social Security numbers being printed on other documents that are mailed such as explanation of benefits documents?*
- *Are companies asking consumers to complete and mail any forms that would contain a Social Security number?*

***The Committee will be asked to discuss their compliance strategies their companies have developed to comply with the requirements of Oregon’s law prohibiting the use of Social Security numbers on consumer correspondence.***

- E. Idaho H526 – New Idaho Code Section 41-1942 - Advertisement of Interest-Indexed Annuities – Idaho Bulletin 20-11.

During recent discussions of the NAIC Annuity Suitability (A) Working Group, Idaho Director Dean Cameron referenced recent legislation signed into law in the State of Idaho that, among other provisions, prohibits life insurers issuing interest-indexed annuity contracts to advertise such contracts without prior approval of the advertisement from the Director. (See copy attached.)

Director Cameron indicated that this legislation has drawn considerable concern among life insurance companies issuing interest-indexed annuity contracts. Specifically, this legislation was read to also include “agent only” advertisements as well as advertisements directed to consumers.

Subsequently, the Idaho Department of Insurance issued Bulletin 20-11 to clarify the application and scope of the requirements of H526. (See copy attached.)

Idaho Bulletin 20-11 indicates that “any material marked “Producer Only” that will not be shown or relied upon by consumers in the sale of annuities is not required to be submitted for prior approval, unless requested.

Moreover, Idaho H526 also “strengthened” the disclosure requirements related to the sale of annuity products.

***The Committee will be asked to discuss compliance strategies associated with Idaho H526 as well as Idaho Bulletin 20-11 as it relates to the advertising and sale of interest-indexed annuity products in the State of Idaho.***

#### **IV. Reporting Items.**

**CEFLI Staff.**

- A. NAIC Annuity Suitability (A) Working Group.

The NAIC Annuity Suitability (A) Working Group met recently to receive updates on state adoptions of the recently revised NAIC Suitability in Annuity Transactions Model Regulation. The Model Regulation has been adopted in Iowa and Arizona and the Working Group heard comments from Idaho, Kentucky, Ohio and Rhode Island concerning their plans to adopt the Model Regulation in the coming months.

The Working Group also issued a set of Frequently Asked Questions concerning the recent revisions to the Model Regulation. (See copy attached.) The NAIC is seeking comments on the draft Frequently Asked Questions within the next 30 days.

**B. NAIC Adopts Artificial Intelligence Principles.**

During a recent meeting of the NAIC's Innovation and Technology Task Force, the NAIC adopted Principles regarding insurer use of Artificial Intelligence (AI). (See copy attached.)

The Principles include guidance with respect to the fair and ethical use of AI, accountability for all AI users, compliance with all applicable insurance laws and regulations, transparency for improving public confidence in AI and steps to ensure that AI systems should be robust, secure and safe when implemented by insurers.

**C. NAIC Forms Special Committee on Race & Insurance.**

The NAIC announced that it will form a Special Committee on Race & Insurance. The Special Committee will be co-chaired by NAIC leadership.

The Special Committee will conduct research and analyze the level of diversity and inclusion within the insurance sector; engage with a broad group of stakeholders and issues related to race, diversity and inclusion in the insurance sector; determine whether current practices exist in the insurance sector that potentially disadvantage minorities; and make recommendations to the NAIC's Executive Committee by year-end.

**D. SEC Announces Event and Emerging Risk Examination Team.**

The SEC recently announced the creation of the Event and Emerging Risk Examination Team (EERT) in the Office of Compliance Inspections and Examinations (OCIE). The EERT will help ensure, through examinations and other firm engagement and monitoring activities, that firms are better prepared to address exigent threats, incidents and emerging risks such as exchange outages, liquidity events and cybersecurity or operational resiliency concerns.

**E. SEC Standards of Conduct Implementation Committee Issues Concerns Regarding Form CRS.**

The SEC maintains a Standards of Conduct Implementation Committee (the "Committee") that reviews compliance with SEC requirements.

The Committee recently issued an announcement suggesting that it is reviewing the Form CRS relationship summaries from a cross-section of firms to assess their compliance with the content and format requirements of Form CRS. (See copy attached)

The Committee's initial reviews identified examples that "may lack certain disclosures or could be clearer or otherwise improved." The announcement indicated that the Committee will engage with firms to share best practices and provide feedback on the filings.

This is part of an overall effort by the SEC and FINRA to confirm compliance with mentally Regulation Best Interest but also Form CRS.

CEFLI plans to conduct a session at its Annual Conference to have regulators from the SEC and FINRA discuss these developments.

F. DOL Declines to Extend 30 Day Comment Deadline on new DOL Fiduciary Rule Proposal.

Despite requests from Congress and advocacy groups, the DOL declined to extend its 30-day comment period on the new DOL Fiduciary Rule Proposal.

The DOL indicated that it is justified in relying solely upon written comments submitted within the 30-day comment deadline rather than holding a hearing because the proposal centers on the narrow policy of a prohibited transaction class exemption.

Industry observers have suggested that the pending election may provide a rationale as to why the DOL has declined to extend the 30-day comment deadline.

G. Hester Pierce and Caroline Crenshaw - Confirmed as Members of the Securities and Exchange Commission.

Hester Pierce and Caroline Crenshaw were confirmed by the Senate to serve on the Securities and Exchange Commission earlier this month.

Hester Pierce, a Republican, was reappointed to the SEC for a term ending in 2025. Crenshaw, a Democrat, will serve a term that expires in June 2024. Ms. Crenshaw has been on the SEC staff for the past seven years working in the Office of Compliance Inspections and Examinations and in the Division of Investment Management.

These appointments allow the SEC to be at full strength with five members. The current Commission is comprised of Chairman Jay Clayton (independent), Elad Roisman (Republican) and Allison Herron Lees (Democrat).

**V. CEFLI Activities.**

- A. Joint Webinar - SEC Regulation Best Interest - The Past, The Present and The Future - CEFLI/Deloitte – Thursday, July 16.

CEFLI conducted a Joint Webinar with CEFLI Affiliate Member organization, Deloitte, on the SEC Regulation Best Interest - The Past, The Present and The Future on Thursday, July 16.

- B. Joint Webinar - Market Conduct - CEFLI/Wolters Kluwer - Wednesday, July 29.

CEFLI also conducted a Joint Webinar with Affiliate Member organization, Wolters Kluwer Financial Services, to discuss Market Conduct on July 29.

**CEFLI staff will provide a brief report on the highlights of these webinars.**

- C. CEFLI COVID-19 Networking Forum – TOMORROW - Thursday, August 13 – 3 PM EDT/2 PM CDT/1 PM MDT/12 Noon PDT.

The next meeting of CEFLI's new Networking Forum to explore COVID-19 operational issues will take place tomorrow, Thursday, August 13 at 3 PM EDT/2 PM CDT/1 PM MDT/12 Noon PDT. Please contact Nancy Perez ([NancyPerez@cefli.org](mailto:NancyPerez@cefli.org)) if you or your colleagues would like to be added to the new COVID-19 Networking Forum.

- D. Publication of CEFLI's 2020 Compliance & Ethics Benchmarking Survey.

CEFLI recently published its [2020 Compliance & Ethics Benchmarking Survey](#) which is now available for access by all member company representatives via CEFLI's website.

The CEFLI Compliance & Ethics Benchmarking Survey is an excellent way to keep abreast of current industry compliance trends and information concerning the staffing and budgeting of life insurance company compliance departments.

We welcome your feedback and comments!

E. Registration Open - 2020 CEFLI Annual Conference.

Registration is now open for CEFLI's 2020 Annual Conference. CEFLI will be conducting its 2020 Annual Conference on September 23-25 virtually via Zoom.

You may register for the 2020 CEFLI Annual Conference by clicking [here](#) (or clicking on the graphic provided with the email for purposes of this meeting).

We hope you will be able to join us!

F. Advertising Review Networking Forum.

CEFLI is considering reconstituting its Advertising Review Networking Forum. We have recently received indications of interest in establishing such a Forum.

If you may have an interest in reconstituting an Advertising Review Networking Forum which would meet periodically to discuss compliance challenges related to Advertising Review issues, please contact Nancy Perez at [NancyPerez@cefli.org](mailto:NancyPerez@cefli.org) to indicate your interest.

**VI. Next Meeting.**

Please note that there have been date changes for the next two Compliance & Ethics Committee meetings as noted (in highlighting) below.

The next meeting of the Committee is scheduled to take place:

Wednesday, September 16, 2020 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Please mark your calendar and plan to join us!

The remaining Committee meeting dates for 2020 will be as follows:

Wednesday, October 14, 2020 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Thursday, November 12, 2020 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

Wednesday, December 16, 2020 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

**VII. Other Business.**

***The Committee will be asked to identify and discuss any other business to be brought before the Committee.***

**DRAFT**

**Minutes  
Meeting of the  
CEFLI Compliance & Ethics Committee  
July 15, 2020**

A meeting of the CEFLI Compliance & Ethics Committee (the “Committee”) was held via conference call on Wednesday, July 15, at 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT.

The following CEFLI member company representatives participated in the meeting:

Dwaine Akins, American National Insurance  
Kelly Anderson, VOYA Financial  
Paul Arvin, American Fidelity Investments Life Insurance Company  
Lauren Barbaruolo, Oxford Life  
John Baumgardner, Standard Insurance Company  
Ann Binzer, The Cincinnati Life Insurance Company  
Nicole Blakney, State Farm  
Kate Blalock, Western & Southern  
Emmanuelle Brooks, Pacific Life  
Jason Broussard, American National  
Donna Brown, Lombard International  
Vickie Bulger, Primerica  
Laura Bullard, Foresters  
Amy Burggraff, Securian Financial  
Michael Burke, The Cincinnati Life Insurance Company  
Sheila Burton, Athene  
Nancy Campbell, Symetra  
Matthew Chisholm, Erie Insurance  
Steve Corbly, The Cincinnati Life Insurance Company  
Jacquie Crader, CUNA Mutual  
Rebecca Criswell, Americo Life  
John Cunningham, Fidelity Investments Life Insurance Company  
Michele Kulish Danielson, American Enterprise  
Kathy Deputy, State Farm  
Kirsten Dorn, CUNA Mutual Group  
Jill Fiddler, Assurity Life Insurance Company  
Jay Forest, Guggenheim Life and Annuity Company  
Tracy Gardner, RiverSource  
Paula Gentry, The Cincinnati Life Insurance Company  
Jim Golembiewski, Sagicor Life

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Rachel Gomez, State Farm  
Meagan Gonzales, Oxford Life  
Lisa Harpenau, Guggenheim Life and Annuity Company  
Steve Harris, Lincoln Financial  
Lisa Holland, State Farm  
Michelle Holmes, VOYA Financial  
Kassia Holt, Securian Life  
Andrea Horrobin, Pacific Life  
Donna Hough-Zukas, SunLife Financial  
Belinda Howard, Principal Life  
Nathan Huss, Sammons  
Jeremy Intihar, Bighthouse Financial  
Jill Jones, Bankers Fidelity Investments Life Insurance Company  
Emily Jordan, The Amalgamated Life Insurance Company  
Martin Karp, Oxford Life  
De Keimach, Delaware Life  
Samantha Knackmuhs, State Farm  
Megan Knapp, American Enterprise  
Nate Kolle, Security Financial  
Emily Kresowik, EquiTrust  
Ben Kuebbing, Western & Southern  
Christopher Lamendola, Amica Life  
John Landers, CUNA Mutual  
Mark Lasswell, RiverSource  
Alison Lehman, Securian Financial  
Laurie Lewis, Amica Life  
Ryan Meehan, RiverSource  
Dave Milligan, American Equity  
Ryan Meehan, RiverSource  
Michelle Morrissey, American Fidelity  
Jim Odland, Thrivent  
Liza Perry, USAA Life  
Megan Phillips, Principal Life  
Tony Poole, AAA Life  
Ryan Reed, Modern Woodmen  
Sally Roudebush, Lincoln Heritage  
Heather Russo, Illinois Mutual  
Matt Schmanski, CNO Financial  
Keith Schroeder, American Amicable  
Michael Schwallie, Ohio National  
Ryan Schwoebel, Protective Live  
John Sharp, Assurity Life Insurance Company  
Wayne Smiley, TIAA  
Leslie Smith, Southern Farm Bureau  
Stephen Smith, Protective Life

Mark Snyder, CNO Financial  
Alison Soderberg, Lombard International  
Cindy Stubblefield, The Cincinnati Life Insurance Company  
Nancy Sweet, CNO Financial  
Jill Terry, The Cincinnati Life Insurance Company  
Adam Trautman, Securian Financial  
Louisa Treiber, Securian Financial  
Bill Turner, American Fidelity  
Laura Vanlaningham, Illinois Mutual  
Norman Von Seggern, AAA Life  
Rochelle Walk, Wilton Re  
Carol Wanstrath, Western & Southern  
Jaime Waters, EquiTrust  
Larry Welch, Citizens  
Emily Wilburn, Illinois Mutual  
Christopher Wilkie, The Baltimore Life Insurance Company  
Jill Williams, Sammons  
Kim Yerigan, The Cincinnati Life Insurance Company

Donald J. Walters, President & CEO, Carla Strauch, Vice President - Compliance & Ethics, and Mallory Hart, Director of Member Relations, Communications and Meetings, also attended the meeting.

**I. Welcome and Introduction.**

The meeting began with a recitation of CEFLI's anti-trust statement.

**II. Approval of Minutes – June 17, 2020.**

On motion, duly made and seconded and unanimously carried, the Committee: RESOLVED, that, the Minutes of the June 17, 2020 meeting are hereby approved.

**III. Issues for Review.**

**A. Coronavirus (COVID-19).**

CEFLI's COVID-19 Networking Forum continues to meet every two weeks. The next meeting is scheduled to take place on Thursday, July 16 at 3 PM EDT. Please contact Nancy Perez ([NancyPerez@cefli.org](mailto:NancyPerez@cefli.org)) to let us know if you or your colleagues may be interested in participating in the COVID-19 Networking Forum.

Members of the Networking Forum have raised a variety of different issues for discussion. Recent questions have pertained to issues associated with the issuance of bulletins by various jurisdictions establishing a moratorium on

cancellation of policies for non-payment of premium and the operational issues that may arise accordingly. The Networking Forum also continues to discuss “return to work” strategies.

Committee members were reminded that CEFLI Affiliate Member Wolters Kluwer provides a free daily email that outlines significant COVID-19 related regulatory changes. For those who may be interested, the link to sign up is:

[http://www.wolterskluwerfs.com/COVID-19-updates.aspx?wkcid=20.04\\_AM\\_CS\\_EN\\_WKFS\\_RCM](http://www.wolterskluwerfs.com/COVID-19-updates.aspx?wkcid=20.04_AM_CS_EN_WKFS_RCM)

Committee members were asked to discuss any operational compliance challenges associated with issues arising out of the COVID-19 pandemic and any updates in their “return to work” strategies.

Members of the Committee noted an increase in activity related to past bulletins and notices. Committee members indicated they are focused on whether certain state grace periods are terminating or expiring, or whether such requirements have been extended. Since many bulletins refer to Governors’ orders, rather than noting a specified end date, some Committee members noted the need to revisit prior Governors’ orders to assess the status in each state. This is a very manual process.

Regarding “return to work” plans, some companies have decided not to have additional staff return to work until 2021. Companies with staff who have returned to work, or whose staff will be returning to work in the upcoming months, noted a reliance on small waves of staff returning, the implementation of enhanced safety protocols, and allowing staff to return voluntarily.

#### **B. New Mexico OSI Bulletin - 2020 – 013.**

Earlier this year, the New Mexico Office of the Superintendent of Insurance (OSI) issued Bulletin 2020-013 related to the marketing of limited benefit/supplemental health products in New Mexico.

The Bulletin applies broadly to what OSI deems “deceptive” marketing practices by producers selling supplemental products. Among its provisions, the Bulletin requires producers to provide their National Producer Number (NPN) to prospective buyers and demands that all producers offering supplemental products furnish a four-page advertisement for the New Mexico Affordable Care Act (ACA) product to every prospective purchaser.

The Bulletin also indicates that “printed advertising media that has not been approved by OSI” is automatically deemed deceptive and subject to enforcement.

While the Committee was asked to discuss their interpretation of the New Mexico OSI Bulletin 2020 – 013 (especially, with respect to the last few paragraphs in the Bulletin and their implication for practices associated with offering supplemental products in the state of New Mexico), no comments were offered by Committee members.

C. Reviewing and Monitoring Recommended Transactions - NAIC Suitability in Annuity Transactions Model Regulation.

Under both the current and revised version of the NAIC Suitability in Annuity Transactions Model Regulation, life insurers have a responsibility to review recommendations to determine whether certain recommended transactions may not follow the requirements of the Model Regulation.

To achieve this objective, insurers may deploy an array of monitoring controls such as systematic customer surveys, rules-based electronic review tools, producer interviews, consumer interviews, confirmation letters, producer statements or attestations, or other forms of internal monitoring to identify transactions for further review prior to issue or after issue.

The Committee was asked to discuss their company's practices for reviewing and monitoring recommended transactions and what steps may be taken in the event certain transactions are deemed not to follow the requirements of the Model Regulation.

One Committee member noted they will ask questions directly of clients, to ensure the client received what he or she was expecting. The company also indicated it is considering implementing a customer survey process.

Another Committee member indicated they use LIMRA/CAP surveys to identify any patterns or concerns, in addition to asking the producer why he or she recommended the product to a consumer, when warranted. Another Committee member noted the development of their own custom survey and the use of a quality control system, in addition to monitoring for replacements, complaints, not-takens, etc.

Further, a Committee member noted the use of periodic audits (a set number of reviews or a small percentage of transactions) to identify potential patterns regarding replacement rates and other potentially problematic sales activity. When appropriate, the distributor may be contacted to understand more about a transaction.

D. Anti-Money-Laundering and Antifraud Policies – Producer Acknowledgment.

Life insurance companies have instituted a range of various anti-money laundering and antifraud policies and procedures designed to detect potentially fraudulent transactions. These policies and procedures are communicated to a company's producers so they can comply with these requirements.

However, company practices may differ with respect to their requirements to have producers acknowledge their receipt and knowledge of company anti-money-laundering and antifraud policies and procedures. Accordingly, a question was presented attempting to determine company practices for managing producer acknowledgment of company anti-money laundering and antifraud policies. Specifically, questions were presented as follows:

- *What approach does your company take with respect to receiving an acknowledgment from producers that they understand your company's anti-money-laundering and antifraud policies and procedures?*
- *How frequently are such acknowledgments required to be sent to producers?*

The Committee was asked to discuss their company's practices for managing producer acknowledgments of company anti-money-laundering and antifraud policies.

One Committee member indicated they rely on the use of a certification form that each producer much complete every 24-months, acknowledging the producer's understanding of the company's red flags training and the related policies and procedures. Another Committee member indicated they also rely on a similar process every 24-months.

A Committee member noted AML training is required of new producers and that a lighter version of the same training is required of existing producers every 24 months. In contrast, one Committee member noted such training is a component of the company's annual compliance training requirement. Two Committee members indicated they require annual AML and antifraud training, along with an annual attestation of understanding.

E. Impact of *AMICA v. Wertz* on Company Practices with Respect to Filing Products for Approval by the COMPACT.

Earlier this year, the Committee reviewed the *AMICA v. Wertz* decision in which a conflict between a Colorado statute and the standards of the Interstate Insurance Product Regulatory Commission (IIPRC) (the "COMPACT") was resolved by the Colorado Supreme Court in favor of a Colorado statute (one-year suicide exclusion) that conflicted with the standards implemented by the

COMPACT (two-year suicide exclusion).

Since the decision, it was anticipated that several insurers would be evaluating the potential implications of filing products for approval by the COMPACT in light of the *AMICA v. Wertz* decision.

The Committee was asked to discuss the implications of submitting products for approval by the COMPACT considering the *AMICA v. Wertz* decision by the Colorado Supreme Court and whether companies may be adding additional filing times to the submission of their product approval request to the COMPACT.

One Committee member indicated they have not altered their filing processes and that they have not experienced any lags in approval processes. Another member shared that the ACLI is looking at state standards that may differ from Compact standards.

F. FINRA Proposes Temporary Extension of Time to Conduct Office Inspections under FINRA Rule 3110 (Supervision) until March 31, 2021.

FINRA recently filed with the SEC a proposed rule change to allow a temporary extension of time to conduct office inspections under FINRA Rule 3110 (Supervision) until March 31, 2021.

This temporary extension of time is being proposed considering the operational challenges faced by various firms considering COVID-19 and changes that have prompted firms to allow employees to pursue work at home arrangements. In doing so, FINRA did not provide relief for firms to conduct such inspections virtually.

However, FINRA has previously requested comments on a proposal outlined within Regulatory Notice 17-38 to allow firms to conduct a remote inspection of a “qualifying office.” Specifically, proposed Rule 3110.15(a) outlined within Regulatory Notice 17-38 would require a firm that conducts remote inspections to have policies and procedures reasonably designed to determine whether a location is eligible for remote inspection as a “qualifying office” and to assess whether a remote inspection of any such office is reasonable.

The Committee was asked to discuss their strategies with respect to conducting FINRA office inspections considering the proposed rule to provide a temporary extension of time until March 31, 2021 to complete such inspections. Discussion topics included:

- *Will firms elect to pursue virtual inspections of branch office locations prior to March 31, 2021 or will they wait until conditions under the pandemic*

*have improved to allow firms to conduct in-person inspections prior to March 31, 2021?*

- *Have firms developed policies and procedures to determine what may constitute a “qualifying office” to be eligible to qualify for remote inspections?*
- *Will firms moved to register employees working from home as a branch office location within the next several months?*

One Committee member indicated they are relying on remote branch examinations, a plan they proactively shared with FINRA. FINRA directed the company to review FINRA Notice 20-16. Two companies noted their use of remote office inspections and branch examinations; one noted their altered process is part of the company’s Business Continuity Plan (BCP).

#### G. Training Requirements for Producers Receiving Sales Compensation.

Life insurance companies appoint producers to promote sales of their annuity products. These producers work directly with clients to recommend the purchase of a specific annuity product. However, as part of these transactions, producers (other than the primary producer who sold the product), may also be eligible to receive compensation associated with the transaction.

The Committee was asked to discuss company’s practices with respect to whether they require producers (other than the primary producer) to undergo regulatory and product training as outlined within the NAIC Suitability in Annuity Transactions Model Regulation as a requirement for receiving compensation on the sale.

Two Committee members indicated their producers must complete product training if compensation will be received on a new annuity sale, indicating it is often difficult to know which reps materially participated in a transaction. No companies indicated the subject has come up during past regulatory examinations.

## IV. Reporting Items.

CEFLI Staff.

### A. SEC Regulation Best Interest Exams.

The SEC’s Regulation Best Interest became effective on June 30, 2020.

In a Risk Alert issued on April 7, 2020 by the SEC’s Office of Compliance Inspections and Examinations, the SEC indicated that:

...[its] “initial examinations, which will likely occur during the first year after the compliance date, are designed primarily to

evaluate whether firms have established policies and procedures reasonably designed to achieve compliance with Regulation Best Interest. OCIE will also evaluate whether firms have made reasonable progress in implementing those policies and procedures as necessary or appropriate, including making such modifications as may be necessary or appropriate, in light of information gained from the implementation process and other facts and circumstances.”

However, we have received anecdotal reports that several firms have already received a Regulation Best Interest exam request from the SEC that may be part of an initial Regulation Best Interest “sweep.” Moreover, reports of initial exam requests indicated an interest in obtaining transaction data over the past 12 months.

CEFLI noted it would be conducting a webinar on Regulation Best Interest on July 16 at 1 PM EDT/12 Noon CDT.

#### B. DOL Proposes New Version of Fiduciary Rule.

On June 29, 2020, the US Department of Labor (DOL) proposed its new version of a Fiduciary Rule. The new version of the Fiduciary Rule is designed to comport with the requirements of the SEC’s Regulation Best Interest.

Several key elements of the proposal include:

- Implementing the “5-part test” to determine ERISA investment advice fiduciary status;
- Issuing new guidance with respect to whether rollover advice will be deemed to be fiduciary in nature;
- Establishing a new prohibited transaction exemption designed to comport with current compensation structures including both transaction-based and fee-based compensation; and
- Introduction of an impartial conduct standards which embodies the “best interest” concepts embedded within the SEC’s Regulation Best Interest.

Comments on the new proposed Fiduciary Rule are due on August 6, 2020.

#### C. NAIC to Develop “Guidance” on NAIC Suitability in Annuity Transactions Model Regulation Revisions.

Ohio Director Jillian Froment, Chair of the NAIC Life Insurance and Annuities (A) Committee, recently announced that the Annuity Suitability (A) Working Group will begin to develop guidance for states to adopt the revisions to the NAIC Suitability in Annuity Transactions Model Regulation.

Iowa Commissioner Doug Ommen has agreed to chair the Annuity Suitability (A) Working Group effort to develop such guidance.

D. FINRA Amended Suitability and Non-Cash Compensation Rules - SEC's Regulation Best Interest.

In Regulatory Notice 20-18, FINRA announced that it has amended its suitability rule and rules governing non-cash compensation to comply with and avoiding consistencies with the SEC's Regulation Best Interest.

FINRA indicated that its Suitability Rule (FINRA Rule 2111) will no longer apply to recommendations to retail customers subject to Regulation Best Interest.

However, FINRA also confirmed that it did not eliminate its Suitability Rule as certain types of transactions such as institutional transactions would not be subject to Regulation Best Interest. In addition, the Regulatory Notice acknowledged that other FINRA rules that have a suitability or suitability like component such as FINRA Rule 2330 (Responsibilities Regarding Deferred Variable Annuities) will not be impacted by these rule changes and will remain in place.

In addition, FINRA amended its non-cash compensation rules to ensure that non-cash compensation arrangements must also be consistent with Regulation Best Interest's Conflict of Interest Obligation and other applicable requirements of Regulation Best Interest.

E. US Court of Appeals for the Second Circuit Upholds Regulation Best Interest.

During last month's Committee meeting, we discussed that several media outlets suggested that a lawsuit filed by seven states and the District of Columbia challenged the implementation of Regulation Best Interest and its requirements for broker-dealers and investment advisers.

On June 26, 2020, the US Court of Appeals for the Second Circuit rejected the lawsuit challenging Regulation Best Interest and upheld Regulation Best Interest (a few days before its June 30, 2020 effective date).

**V. CEFLI Activities.**

- A. Joint Webinar - SEC Regulation Best Interest - The Past, The Present and The Future - CEFLI/Deloitte –Thursday, July 16 - 1 PM EDT/12 Noon CDT/11 AM MDT/10 AM PDT.

CEFLI noted it will be conducting the next installment in its Educational Webinar series through a Joint Webinar with CEFLI Affiliate Member organization Deloitte on the SEC Regulation Best Interest - The Past, The Present and The Future on Thursday, July 16 at 1 PM EDT/12 Noon CDT/11 AM MDT/10 AM PDT.

The webinar will be moderated by George Hanley, Managing Director of the Insurance Practice at Deloitte who will be joined by Jim Puhala of MassMutual and Phil Pescatore of The Guardian Life Insurance Company of America as they examine the challenges confronted to comply with Regulation Best Interest as well as the challenges that lie ahead with respect to complying with state adoptions of the revisions to the NAIC Suitability in Annuity Transactions Model Regulation and state fiduciary standards.

- B. CEFLI COVID-19 Networking Forum – Thursday, July 16 and Thursday, July 30 – 3 PM EDT/2 PM CDT/1 PM MDT/12 Noon PDT.

The next meetings of CEFLI's new Networking Forum to explore COVID-19 operational issues is on Thursday, July 16 and Thursday, July 30 at 3 PM EDT/2 PM CDT/1 PM MDT/12 Noon PDT.

- C. Joint Webinar - Market Conduct - CEFLI/Wolters Kluwer - Wednesday, July 29 - 1 PM EDT/12 Noon CDT/11 AM MDT/10 AM PDT.

CEFLI plans to conduct a Joint Webinar with Affiliate Member organization, Wolters Kluwer, to discuss Market Conduct - Lessons Learned from Market Conduct Activity.

The webinar is Wednesday, July 29 at 1 PM EDT/12 Noon CDT/11 AM MDT/10 AM PDT.

## VI. Next Meeting.

There has been a date change for the next Compliance & Ethics Committee meeting, as noted below.

The next meeting of the Committee is scheduled to take place:

Wednesday, August 12, 2020 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

The remaining Committee meeting dates for 2020 are as follows:

Wednesday, September 16, 2020 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, October 14, 2020 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Thursday, November 12, 2020 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

Wednesday, December 16, 2020 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

**VII. Other Business.**

There being no additional business the meeting was adjourned.

## **2017 ORS 646A.620<sup>1</sup>**

# **Prohibition on printing, displaying or posting Social Security numbers**

### **• exemptions**

- (1)** Except as otherwise specifically provided by law, a person may not:
  - (a)** Print a consumer's Social Security number on mail to the consumer that is:
    - (A)** Material the consumer did not request; **or**
    - (B)** Part of any documentation the consumer requested for a transaction or service, unless the Social Security number is redacted.
  - (b)** Print a consumer's Social Security number on any card required for the consumer to access products or services provided by the person.
  - (c)** Publicly post or publicly display a consumer's Social Security number unless the Social Security number is redacted. As used in this paragraph, "publicly post or publicly display" means to communicate or otherwise make available to the public.
  - (d)** Dispose of, or transfer to another person for disposal, material or media that display a consumer's Social Security number unless the person makes the Social Security number unreadable or unrecoverable or ensures that any person that ultimately disposes of the material or media makes the Social Security number unreadable or unrecoverable.
- (2)** This section does not prevent the collection, use or release of a Social Security number as required by state or federal law or rule adopted by the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals or the judge of the Oregon Tax Court and does not prevent the use or printing of a Social Security number for internal verification or administrative purposes or to enforce a judgment or court order.
- (3)** This section does not apply to records that must be made available to the public under state or federal law or rule adopted by the Chief Justice of the Supreme

Court, the Chief Judge of the Court of Appeals or the judge of the Oregon Tax Court.

- (4)** This section does not apply to a Social Security number in any of the following records or copies of records in any form or storage medium maintained or otherwise possessed by a court, the State Court Administrator or the Secretary of State:
- (a)** A record received on or before October 1, 2007;
  - (b)** A record received after October 1, 2007, if, by state or federal statute or rule, the person that submitted the record could have caused the record to be filed or maintained in a manner that protected the Social Security number from public disclosure; **or**
  - (c)** A record, regardless of the date created or received, that is:
    - (A)** An accusatory instrument charging a violation or crime;
    - (B)** A record of oral proceedings in a court;
    - (C)** An exhibit offered as evidence in a proceeding; **or**
    - (D)** A judgment or court order. [2007 c.759 §11; 2017 c.254 §1]

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<sup>1</sup> Legislative Counsel Committee, *CHAPTER 646A—Trade Regulation*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors646A.html](https://www.oregonlegislature.gov/bills_laws/ors/ors646A.html) (2017) (last accessed Mar. 30, 2018).

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 526

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-1941, IDAHO CODE, TO REVISE PRO-  
2 VISIONS REGARDING ANNUITY SALES TO CONSUMERS AND DISCLOSURES; AMEND-  
3 ING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
4 41-1942, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ADVERTISEMENT  
5 OF INTEREST-INDEXED ANNUITIES; AND AMENDING CHAPTER 19, TITLE 41, IDAHO  
6 CODE, BY THE ADDITION OF A NEW SECTION 41-1943, IDAHO CODE, TO ESTABLISH  
7 PROVISIONS REGARDING STANDARDS FOR POLICY PROVISIONS FOR ANNUITIES.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 41-1941, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 41-1941. ANNUITY SALES TO CONSUMERS -- DISCLOSURES. (1) In this sec-  
13 tion, the following definitions shall apply unless the context otherwise re-  
14 quires:

15 (a) "Contract owner" means the owner named in the annuity contract or  
16 certified holder in the case of a group annuity contract.

17 (b) "Determinable elements" means elements that are derived from pro-  
18 cesses or methods that are guaranteed at issue and that are not subject  
19 to company discretion, but where the values or amounts cannot be deter-  
20 mined until some point after issue. These elements may include the pre-  
21 miums, credited interest rates (including any bonus), benefits, val-  
22 ues, noninterest-based credits, charges or elements of formulas used to  
23 determine any of these. An element is considered determinable if it is  
24 calculated from underlying determinable elements only or from both de-  
25 terminable and guaranteed elements.

26 (c) "Generic name" means a short title descriptive of the annuity con-  
27 tract being applied for or illustrated such as "single premium deferred  
28 annuity."

29 (d) "Guaranteed elements" means the premiums, credited interest rates  
30 (including any bonus), benefits, values, noninterest-based credits,  
31 charges or elements of formulas used to determine any of these, that are  
32 promised and determined at issue. An element is considered guaranteed  
33 if all of the underlying elements that go into its calculation are guar-  
34 anteed.

35 (e) "Insurance producer" or "producer" has the same meaning as in chap-  
36 ter 10, title 41, Idaho Code.

37 (f) "Nonguaranteed elements" means the premiums, credited interest  
38 rates (including any bonus), benefits, values, noninterest-based cred-  
39 its, charges or elements of formulas used to determine any of these, that  
40 are subject to company discretion and that are not guaranteed at  
41 issue. An element is considered nonguaranteed if any of the underlying  
42 nonguaranteed elements are used in its calculation.

1 (g) "Structured settlement annuity" means a qualified funding asset  
2 as defined in section 130(d) of the Internal Revenue Code or an annuity  
3 that would be a qualified funding asset under section 130(d) of the In-  
4 ternal Revenue Code but for the fact that it is not owned by an assignee  
5 under a qualified assignment.

6 (2) The provisions of this section shall apply to all group and individ-  
7 ual annuity contracts and certificates except:

8 (a) Registered or nonregistered variable annuities or other registered  
9 products;

10 (b) Immediate and deferred annuities that contain no nonguaranteed el-  
11 ements;

12 (c) Annuities used to fund:

13 (i) An employee pension plan that is covered by the employee re-  
14 tirement income security act of 1974, title 29, U.S.C. ~~sections~~  
15 1001 through 1461;

16 (ii) A plan described in section 401(a), 401(k) or 403(b) of the  
17 Internal Revenue Code, where the plan, for purposes of the em-  
18 ployee retirement income security act of 1974, is established or  
19 maintained by an employer;

20 (iii) A governmental or church plan as defined in section 414 of  
21 the Internal Revenue Code or a deferred compensation plan of a  
22 state or local government or a tax-exempt organization pursuant to  
23 section 457 of the Internal Revenue Code; or

24 (iv) A nonqualified deferred compensation arrangement estab-  
25 lished or maintained by an employer or plan sponsor.

26 (d) Structured settlement annuities.

27 (3) If the application for an annuity contract is taken in a face-to-  
28 face meeting, the applicant, at or before the time of application and at the  
29 time of contract delivery, shall be given both the disclosure document and  
30 the buyer's guide in the form prescribed by the director. The disclosure  
31 document shall be dated and signed by the prospective annuity owner and pro-  
32 ducer and the company shall maintain a signed copy for ~~the~~ a period of five  
33 (5) years after the natural life of the contract.

34 (4) If the application for an annuity contract is taken by means other  
35 than in a face-to-face meeting, the applicant shall be sent both the disclo-  
36 sure document and the buyer's guide ~~in the manner and form prescribed by the~~  
37 ~~director no later than five (5) business days after the completed applica-~~  
38 ~~tion is received by the insurer at the time of application and at the time of~~  
39 contract delivery. The producer and the company shall maintain a signed copy  
40 of the disclosure document for a period of five (5) years after the natural  
41 life of the contract.

42 (5) A solicitation for an annuity contract provided in other than a  
43 face-to-face meeting shall include a statement that the proposed applicant  
44 may contact the insurer for a free annuity buyer's guide.

45 (6) ~~If the disclosure document and buyer's guide are not provided at or~~  
46 ~~before the time of application, a free look period of not less than twenty~~  
47 ~~(20) days shall be provided for the applicant to return the annuity contract~~  
48 ~~without penalty. This free look period shall run concurrently with any other~~  
49 ~~free look period provided in statute.~~

1       ~~(7)~~ At a minimum, the following information shall be included in the  
 2 disclosure document required to be provided under this section in a form or  
 3 forms prescribed by the director:

4       (a) The generic name of the contract, the company product name, if dif-  
 5 ferent, the form number and the fact that it is an annuity;  
 6       (b) The insurer's name and address;  
 7       (c) A description of the contract and its benefits, emphasizing its  
 8 long-term nature and including the following examples where appropri-  
 9 ate:

10       (i) The guaranteed, nonguaranteed and determinable elements of  
 11 the contract, their limitations, if any, and an explanation of how  
 12 they operate;

13       (ii) An explanation of the initial crediting rate, specifying any  
 14 bonus or introductory portion, the duration of the rate and the  
 15 fact that rates may change from time to time and are not guaran-  
 16 teed;

17       (iii) The periodic income options both on a guaranteed and  
 18 nonguaranteed basis;

19       (iv) Any value reductions caused by withdrawals from or surrender  
 20 of the contract;

21       (v) How values in the contract can be accessed;

22       (vi) The death benefit, if available, and how it will be calcu-  
 23 lated;

24       (vii) A summary of the federal tax status of the contract and any  
 25 penalties applicable on withdrawal of values from the contract;  
 26 and

27       (viii) The impact of any rider, such as a long-term care rider.

28       (d) The specific dollar amount or percentage charges and fees shall be  
 29 listed with an explanation of how they apply;

30       (e) Information about the current guaranteed rate for new contracts  
 31 that contains a clear notice that the rate is subject to change;

32       (f) Whenever projections for nonguaranteed elements of a contract are  
 33 provided in the disclosure document, equal prominence shall be given to  
 34 guaranteed elements; and

35       (g) Terms used in the disclosure document shall be defined in clear and  
 36 concise language that facilitates the understanding of a typical person  
 37 within the segment of the public to which the disclosure document is di-  
 38 rected.

39       ~~(8)~~ For annuities in the payout period with changes in nonguaranteed  
 40 elements and for the accumulation period of a deferred annuity, the insurer  
 41 shall provide each contract owner with a report, at least annually, on the  
 42 status of the contract. Such report shall contain at a minimum the following  
 43 information:

44       (a) The beginning and end dates of the current report period;

45       (b) The accumulation and cash surrender value, if any, at the end of the  
 46 previous report period and at the end of the current report period;

47       (c) The total amounts, if any, that have been credited, charged to the  
 48 contract value or paid during the current report period; and

49       (d) The amount of outstanding loans, if any, as of the end of the current  
 50 report period.

1           (98) The director may promulgate rules pursuant to this section in-  
2 cluding, but not limited to, more fully implementing model rules or laws  
3 developed by the national association of insurance commissioners that  
4 provide standards for the disclosure of certain minimum information in con-  
5 nection with the sale of annuity contracts.

6           (109) Nothing in this section shall be construed to create or imply a  
7 private cause of action for a violation of the provisions of this section or  
8 rules promulgated pursuant to this section.

9           SECTION 2. That Chapter 19, Title 41, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
11 ignated as Section 41-1942, Idaho Code, and to read as follows:

12           41-1942. ADVERTISEMENT OF INTEREST-INDEXED ANNUITIES. No issuer of  
13 interest-issued annuity contracts shall advertise interest-indexed annuity  
14 contracts, regardless of the advertising medium, without prior approval of  
15 such advertisement from the director. For purposes of this section, "in-  
16 terest-indexed annuity" means a type of annuity whose credited interest is  
17 linked to an external reference at any time during the term of the contract  
18 and shall include contracts, application forms where written application is  
19 required and is to be made a part of the contract, printed riders, endorse-  
20 ments, and renewal certificates.

21           SECTION 3. That Chapter 19, Title 41, Idaho Code, be, and the same is  
22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
23 ignated as Section 41-1943, Idaho Code, and to read as follows:

24           41-1943. STANDARDS FOR POLICY PROVISIONS FOR ANNUITIES. No annuity  
25 shall be delivered or issued for delivery in this state that contains:

26           (1) Surrender charges that persist past ten (10) years from the time of  
27 deposit; or

28           (2) Surrender charges that exceed ten percent (10%) in the first year  
29 and decrease one percent (1%) per year in subsequent years.

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

**BRAD LITTLE**  
Governor

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**DEAN L. CAMERON**  
Director

**BULLETIN NO. 20-11**

DATE: June 19, 2020  
TO: Insurers and Producers Writing Annuities in Idaho  
FROM: Dean L. Cameron, Director  
SUBJECT: Annuity disclosures and filings under Idaho Code §§ 41-1941, 41-1942, and 41-1943

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The 2020 Idaho Legislature enacted, and the Governor signed into law, H526 creating additional new disclosure and filing requirements for annuity sales to Idaho consumers. The new law, which is effective July 1, 2020, is codified in Idaho Code §§ 41-1941, 41-1942, and 41-1943, and will affect any person involved in the selling of annuity contracts where the contract owner is a resident of the state of Idaho. This Bulletin shall apply to all group and individual annuity contracts and certificates that are subject to the referenced provisions of Idaho Code, including advertisements and disclosures of annuities filed with the Interstate Insurance Product Regulation Commission. Persons involved in the sale of annuities should carefully review the new standards as codified. H526 may be viewed at:

<https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2020/legislation/H0526.pdf>

The purpose of this Bulletin is to provide additional guidance regarding the legislative amendment as provided in H526 regarding the disclosure requirements, filing requirements and standards for certain policy provisions.

The initial sentence of section 41-1942, Idaho Code, as stated in H526 reads as follows: “No issuer of interest-issued annuity contracts shall advertise....” This sentence contains a typographical error. The sentence should state: “No issuer of interest-indexed annuity contracts shall advertise....”

**I. Free Look Period.**

H526 removed a paragraph from section 41-1942 that provided a free look period if the disclosure document was not provided at time of application. This change did not remove the general free examination requirement on all annuity contracts of twenty days. See section 41-1935. Given that H526 requires the disclosure document always be provided at time of application, the additional free look provision would no longer be applicable.

**II. Disclosure Requirements.**

H526 strengthened the disclosure requirements, in particular at the time of application, as explained below:

**A. Meeting with the Proposed Applicant.**

- i. Face-to-face meeting. Where an application for an annuity contract is taken in a face-to-face meeting, the applicant shall be given the disclosure document and the buyer's guide at the time of application **and** at the time of the contract delivery. The form of the disclosure document and the buyer's guide shall be in the form as prescribed by the Director. The annuity company shall maintain a signed copy of the disclosure document for a minimum of five (5) years after the natural life of the annuity contract.
- ii. Other than a face-to-face meeting. Where an application for annuity contract is taken in a manner other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the buyer's guide, at the time of application **and** at the time of contract delivery. The annuity company shall maintain a signed copy of the disclosure document for a minimum of five (5) years after the natural life of the annuity contract.
- iii. Solicitation for an annuity contract. In any solicitation for an annuity contract provided in other than a face-to-face meeting, the solicitation shall include a statement that the proposed applicant may contact the insurer directly for a free annuity buyer's guide.

**B. Required Disclosure Information.**

In addition to the minimum disclosure information listed in Idaho Code § 41-1941(6)(a) through (g), the Director is requiring a specific form be considered part of the disclosure requirement for all annuity contracts sold on or after October 1, 2020. The form (or forms) prescribed under Idaho Code § 41-1941(6) is attached to this bulletin and may also be obtained on the Department website.

Additionally, insurers shall submit disclosures for all annuity contracts to Idaho DOI through SERFF no later than October 1, 2020, that demonstrate at least the following minimum information and conditions are being met (additions to code language are italicized):

- i. The generic name of the contract, the company product name if different than the generic name, the form number, and that the contract is an annuity.
- ii. The insurer's legal name, physical address, *website address and telephone number*.
- iii. Description of the annuity contract and its benefits, emphasizing its long-term nature, including examples as follows, where appropriate:
  - a. The guaranteed, nonguaranteed and determinable elements of the contract, and limitations, if any, *including for interest-indexed annuities, the elements used to determine the index-based interest, such as the participation rates, caps or spread*, and an explanation of how they operate;
  - b. An explanation of the initial crediting rate, *or for fixed indexed annuities, an explanation of how the index-based interest is determined*, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;
  - c. The periodic income options both on a guaranteed and nonguaranteed basis;

- d. Any value reductions caused by withdrawals from or surrender of the contract;
  - e. How values in the contract can be accessed;
  - f. The death benefit, if available, and how it will be calculated;
  - g. A summary of the federal tax status of the annuity contract, and any penalties applicable on withdrawal of values from the contract; and,
  - h. The impact of any rider to the annuity contract.
- iv. The specific dollar amount or percentage of all charges and fees shall be listed with an explanation of how such charges and fees apply.
  - v. Information as to the current guaranteed rate *or indexed crediting rate formula, if applicable*, for new contracts that contains a clear notice that the rate is subject to change.
  - vi. Where projections for nonguaranteed elements of an annuity contract are provided in a disclosure document, there shall be equal prominence given to guaranteed elements.
  - vii. The terms used in the disclosure document shall be clearly defined and use concise language that facilitates the understanding of a typical person within the segment of the public to which the disclosure document is directed.

### C. Annual Report.

For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the annuity insurer shall provide the annuity contract owner a report, minimally on an annual basis, on the status of the contract, which shall contain at least the following information:

- i. The beginning and end dates of the current report period;
- ii. The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;
- iii. The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and,
- iv. The amount of outstanding loans, if any, as of the end of the current report period.

### III. Filing Requirements.

The new section, Idaho Code § 41-1942, requires issuers of interest-indexed annuity contracts to submit any advertisement, regardless of the medium, for review and approval by the Director, before any such advertisement shall be used to induce the purchase of an annuity contract. These advertisements are to be submitted through SERFF for approval prior to use.

An issuer that uses or publishes any material marked “Producer Only” (or substantially similar), that will not be shown or relied upon by consumers in the sale of annuities, is not required to submit such material unless requested. However, any advertisements, including “Lead Cards” or other like documents or publications that include product information, including ranges, that consumers may see or have access to or that may be given to the consumer are considered advertisement material and shall be submitted for review and approval to the Idaho Department of Insurance through SERFF.

This includes, but is not limited to, illustrations and other such documents seen by the consumer as part of the sales process. If “Producer Only” documents are shown to consumers, an insurer may be subject to enforcement action due to noncompliance.

In addition, any material that makes no representation of specific products, expected/potential returns or ranges of returns, features, fees, or other terms of an annuity product or contract, does not need to be submitted unless requested. Keep in mind that any such material that includes such information or detail about specific products, features, returns, fees, or other terms of an annuity product or contract does need to be submitted for review and approval to the Idaho Department of Insurance through SERFF.

As to interest-indexed annuity products and contracts that are intended to be sold to residents of the state of Idaho, filed with the Interstate Insurance Product Regulation Commission, as provided under chapter 57, title 41, Idaho Code: any advertisements, regardless of the medium, to be used for such annuity(ies), shall be submitted for review and approval to the Idaho Department of Insurance through SERFF.

Filing interest-indexed annuity advertisements prior to use is a new requirement effective July 1, 2020. As all companies have been affected by the current pandemic, the Department will exercise enforcement discretion, meaning the Department will not consider a company noncompliant, as long as all currently-in-use advertisements are submitted through SERFF to the Department prior to July 1, 2020. As this is a common deadline for all insurers, please be advised that the Department will need additional review time to process the potentially large number of advertisement filings.

Companies that continue use of current advertisements or other documents that are not submitted by July 1, 2020, risk Departmental administrative actions due to noncompliance.

#### **IV. Standards for Policy Provisions for Annuities.**

The new section 41-1943 prohibits annuity contracts delivered or issued for delivery in the state of Idaho from having surrender charges above certain thresholds. In addition to no surrender charges applying past ten years from deposit, the surrender charge must not exceed 10% in the first year, 9% in the second year, 8% in the third year, and so on, as shown in the table below. Any annuity contracts with surrender charges above these thresholds may not be sold after July 1, 2020.

Years Since Deposit	1	2	3	4	5	6	7	8	9	10	11+
Max Surrender Charge	10%	9%	8%	7%	6%	5%	4%	3%	2%	1%	0%

## IDAHO ANNUITY DISCLOSURE

The form is required to be completed for any Annuity Contract executed in the state of Idaho, and it is to be retained with the Annuity Application and Contract during the contract period and for five years after termination. All information, where applicable, must be completed in percentages or dollar amounts.

SECTION I - PRODUCER INFORMATION					
Producer Name:		NIPR Number:			
Producer Address City, State, Zip:		License Number:			
		Email Address:			
Telephone:		Website:			
I (Producer) am licensed to sell annuities, and offer the following insurance/annuity products:					
<input type="checkbox"/> Fixed/Equity-indexed Annuities <input type="checkbox"/> Variable Annuities <input type="checkbox"/> Life Insurance					
<b>I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about:</b>					
<input type="checkbox"/> Mutual Funds / ETFs <input type="checkbox"/> Stocks / Bonds <input type="checkbox"/> Certificates of Deposit					
You can ask how I am compensated. Depending on the particular annuity I sell, I will or may be paid cash compensation as follows:					
<input type="checkbox"/> Commission (Paid by Company) <input type="checkbox"/> Fees (Paid by consumer) <input type="checkbox"/> Other (Describe):					
SECTION II - ANNUITANT INFORMATION (If joint, complete for all)					
Annuitant Name:		<input type="checkbox"/> M <input type="checkbox"/> F	Age at Issue:		<input type="checkbox"/> Ind. <input type="checkbox"/> JT
Annuitant Name:		<input type="checkbox"/> M <input type="checkbox"/> F	Age at Issue:		<input type="checkbox"/> Ind. <input type="checkbox"/> JT
Annuitant Address City, State, Zip:		Email Address:			
		Telephone:			
SECTION III - COMPANY INFORMATION					
Company Name:		ID Certificate of Authority:			
Company Address City, State, Zip:		Email Address:			
Telephone:		Website:			
SECTION IV - CONTRACT INFORMATION					
<b>If projections are used, guaranteed and non-guaranteed elements shall be given equal prominence.                      Mark as N/A if not applicable. Attach addendum if additional space is needed.</b>					
Product Name:		Form number:			
Product Type:	<input type="checkbox"/> Fixed	<input type="checkbox"/> Equity-indexed	<input type="checkbox"/> Variable		
Application:	<input type="checkbox"/> In person	<input type="checkbox"/> Direct Solicitation	<input type="checkbox"/> Electronic	<input type="checkbox"/> Other:	
Index(es):					
Current Cap Rate:	%	Minimum Cap Rate:	%	Subject to change annually:	<input type="checkbox"/> Y <input type="checkbox"/> N
Participation Rate:	%	Min. Participation Rate:	%	Subject to change annually:	<input type="checkbox"/> Y <input type="checkbox"/> N
Initial Interest Rate:	%	Min. Interest Rate:	%	Subject to change annually:	<input type="checkbox"/> Y <input type="checkbox"/> N
Describe additional elements/ rates/fees (e.g. floors, monthly caps, M&E charges):					
Explain value reductions caused by withdrawals or surrender:					
Explain penalties applicable on withdrawal of values from the contract:					
Death Benefit:	<input type="checkbox"/> Y <input type="checkbox"/> N	If yes, explain how it will be calculated:			

RIDERS TO THE CONTRACT (If more than two, please attach additional paper)				
Rider Name:			Form number:	
Current Fee:	%	Maximum Fee:	%	Subject to change annually: <input type="checkbox"/> Y <input type="checkbox"/> N
Description of Benefit:				
Rider Name:			Form number:	
Current Fee:	%	Maximum Fee:	%	Subject to change annually: <input type="checkbox"/> Y <input type="checkbox"/> N
Description of Benefit:				
ADDITIONAL CONTRACT OR RIDER INFORMATION				

REPLACEMENT	
<b>A replacement is:</b> Any transaction by which a new annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that existing life insurance or an annuity has been or is to be lapsed, forfeited, surrendered, or otherwise terminated.	
<b>This contract</b> <input type="checkbox"/> <b>is</b> <input type="checkbox"/> <b>is not</b> <b>replacing any life insurance policy/product or any annuity contract.</b>	
Company Name:	Policy/Contract Number:
Does the replaced Policy/Contract have surrender charges:	<input type="checkbox"/> Y <input type="checkbox"/> N
If yes, describe the surrender charges/penalties:	

**Annuitant:**  
 Your signature below indicates that the above-named producer has explained all elements and risks and that you have read and understood the terms and conditions of your new Annuity contract.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Producer:**  
 I have explained all elements and risks involved in this Annuity contract.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Comments are being requested on this draft document. Comments should be sent only by email to Jolie Matthews at [jmatthews@naic.org](mailto:jmatthews@naic.org).

## ***SUITABILITY IN ANNUITY TRANSACTIONS MODEL REGULATION (#275)***

### **BEST INTEREST STANDARD OF CONDUCT REVISIONS**

#### ***FREQUENTLY ASKED QUESTIONS***

This Frequently Asked Questions (FAQ) document is intended to specifically address those questions that are likely to arise as the states work to adopt the revised *Suitability in Annuity Transactions Model Regulation (#275)* and to assist in the uniform implementation and enforcement of its provisions across all NAIC member jurisdictions. No provision of this FAQ document is intended to supersede the specific language in Model #275.

This FAQ document is offered to any state that chooses to use it. It is not intended to expand the content of the model regulation but provides interpretive guidance regarding certain aspects of its provisions.

#### **GENERAL**

##### **Q1. Why did the NAIC decide to revise the model to include a best interest standard of conduct?**

A1. The revised model was developed, in part, in response to the U.S. Department of Labor's (DOL) fiduciary rule, which was finalized in April 2016 but vacated in its entirety in March 2018. The DOL fiduciary rule would have expanded the scope of who is considered a fiduciary to federal Employee Retirement Income Security Act of 1974 (ERISA) retirement plans and individual retirement accounts (IRAs) to include a broader set of insurance agents, insurance brokers and insurers. Separately, the U.S. Securities and Exchange Commission (SEC) released a proposed rule package in May 2018, which included Regulation Best Interest (Reg BI). The SEC finalized Reg BI in June 2019. The final Reg BI establishes a best interest standard of conduct for broker-dealers beyond the existing suitability obligation. Recognizing the SEC's and the DOL's role in the regulatory landscape and believing that consumers are better protected when, to the extent possible, there is harmonization of the regulations enforced by the states, the SEC and the DOL, the NAIC revised the model to establish a framework for an enhanced standard of conduct that is more than the model's current suitability standard but not a fiduciary standard.

##### **Q2. How does the Harkin amendment, Section 989J of the Dodd-Frank Act apply to the revised model?**

A2. Section 989J gives the states authority to regulate the sale of fixed annuities when certain conditions are met, including when the state in which the contract is issued or the state in which the insurer issuing the contract is domiciled: 1) has adopted requirements that "substantially meet or exceed the minimum requirements" established by the 2010 version of the NAIC's *Suitability in Annuity Transactions Model Regulation (#275)*; and 2) "adopts rules that substantially meet or exceed the minimum requirements of any **successor modifications** to the model regulation[]" within 5 years of the adoption by the NAIC. The only exception to this requirement is if the product is issued by an insurance company that adopts and implements practices on a nationwide basis that meet or exceed the minimum requirements established by the NAIC's Model #275, "and **any successor thereto**," and is therefore subject to examination by the State of domicile or by any other State where the insurance company conducts sales of such products.

The NAIC considers the 2020 revisions to be a successor modification to the model that exceeds the requirements of the 2010 revisions, which is reflected in a drafting note to Section 1—Purpose:

“Section 989J of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) specifically refers to this model regulation as the “Suitability in Annuity Transactions Model Regulation.” Section 989J of the Dodd-Frank Act confirmed this exemption of certain annuities from the Securities Act of 1933 and confirmed state regulatory authority. This regulation is a successor regulation that exceeds the requirements of the 2010 model regulation.”

As such, states need to work toward adopting the 2020 revisions within 5 years after its adoption by the full NAIC membership in February 2020 to maintain their authority to regulate the sale of fixed annuities.

## **EXEMPTIONS**

**Q3. What is the intent of the exemption to the revised model’s provisions under Section 4A to allow a consumer in response to a direct response solicitation to purchase an annuity product where no recommendation is made based on information collected from the consumer?**

A3. This exception from the rule was in the 2010 model rule and was not changed in the 2020 version. A direct-response solicitation is a solicitation through a sponsoring or endorsing entity solely through mails, the Internet, a digital platform, or other mass communication media that does not involve a communication directed to a specific individual by a natural person, or by a simulated human voice.

## **BEST INTEREST STANDARD OF CONDUCT**

**Q4. What is the best interest standard of conduct and how would a producer or insurer satisfy it?**

A4. To satisfy the best interest obligation, a producer or an insurer must satisfy the four obligations: 1) care; 2) disclosure; 3) conflict of interest; and 4) documentation.

To satisfy the four obligations, when making a recommendation, producers must:

- Know the consumer’s financial situation, insurance needs and financial objectives;
- Understand the available recommendation options;
- Have a reasonable basis to believe the recommended option effectively addresses the consumer’s financial situation, insurance needs and financial objectives;
- Communicate the basis of the recommendation to the consumer;
- Disclose their role in the transaction, their compensation, and any material conflicts of interest; and
- Document, in writing, any recommendation and the justification for such recommendation.

**Q5. What types of recommendations fall under the best interest standard of conduct?**

A5. All recommendations made by a producer or insurer to purchase, exchange or replace an annuity product must comply with the best interest standard of conduct. Specifically, as defined in Section 5M, a “recommendation” is advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, an exchange or a replacement of an annuity in accordance with that advice. A recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

**Q6. Does the best interest standard of conduct apply to a producer who never meets the client, but assists a producer in making a recommendation to the client?**

A6. Yes, under Section 6A(5), a producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer.

### **CARE OBLIGATION**

**Q7. What is the intent of language in Section 6A(1)(c), which states “Producers shall be held to standards applicable to producers with similar authority and licensure?”**

A7. The intent of this language is to help to ensure that in any compliance or enforcement action, a producer’s recommendation is compared only to other producers as opposed to being compared to investment advisers or possibly higher-level fiduciaries, such as trust officers or plan sponsors under the federal Employee Retirement Income Security Act of 1974 (ERISA) for compliance and enforcement purposes.

### **DISCLOSURE OBLIGATION**

**Q8. To satisfy the disclosure obligation, Section 6A(2)(a) requires a producer to provide the completed “Insurance Agent (Producer) Disclosure for Annuities” form in Appendix A prior to a recommendation, can a producer provide the form at the initial client meeting? Is the producer required to update the form and provide it again or can the producer provide it once and satisfy this obligation?**

A8. TBD

### **CONFLICT OF INTEREST OBLIGATION**

**Q9. As defined in Section 5I(2), a material conflict of interest does not include cash compensation or non-cash compensation, what other type of financial interest would be considered a material conflict of interest? Is it only an ownership interest as referenced in Section 6A(3)?**

A9. TBD

**Q10. Under Section 6A(3), to satisfy the conflict of interest obligation, what must a producer do to identify and avoid or reasonably manage a material conflict of interest? Examples?**

A10. TBD

### **DOCUMENTATION OBLIGATION**

TBD

### **SUPERVISION SYSTEM**

**Q11. Do these revisions require insurers to set up new supervision systems to ensure producer compliance with this new standard of conduct?**

A11. No, but the revisions do add additional insurer supervision requirements by requiring insurers to establish and maintain reasonable procedures in three additional areas:

- To assess whether a producer has provided to the consumer the information required by the revised model.
- To identify and address suspicious consumer refusals to provide consumer profile information.

- 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.

**Q12. Section 6C(2)(h) requires an insurer as part of its supervision system to identify and eliminate sales contests, quotas, bonuses, and non-cash compensation based on the sale of specific annuities within a limited period of time. What type of business practices is provision intended to address?**

A12. The requirements of Section 6C(2)(h) are not intended to prohibit general incentives regarding sales of an insurance company's products where there is no emphasis on a particular product. As the provisions states, insurer business practices involving sales contests, quotas, bonuses and non-cash compensation based on the sale of a specific annuity or annuities within a specified or limited period of time are prohibited and should be identified and eliminated.

### **TRAINING**

**Q13. Do producers complete additional training on the new standard of conduct even if they have already completed the existing annuity training requirements?**

A13. Yes, Section 7 requires a producer who has already completed the existing annuity training requirements prior to a state's effective date of the revised model to complete within 6 months of that date either a four credit training course or an additional one-time one credit training course on the appropriate sales practices, replacement an disclosure requirements under the revised model. In adopting this section, a state could choose a different timeframe for this requirement.

### **SAFE HARBOR**

TBD

### **ENFORCEMENT**

TBD

## National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)

**RECOMMENDS** that insurance companies and all persons or entities facilitating the business of insurance that play an active role in the AI system life cycle, including third parties such as rating and advisory organizations (hereafter referred to as “AI actors”) promote, consider, monitor and uphold the following principles according to their respective roles; and

**THIS DOCUMENT** is intended to establish consistent high-level guiding principles for AI actors. These principles are guidance and do not carry the weight of law or impose any legal liability. However, this guidance can serve to inform and establish general expectations for AI actors and systems emphasizing the importance of accountability, compliance, transparency, and safe, secure and robust outputs.

Further, **THIS DOCUMENT**

Should be used to assist regulators and NAIC committees addressing insurance-specific AI applications. The level of regulatory oversight may vary based on the risk and impact to the consumer. These principles should be interpreted and applied in a manner that accommodates the nature and pace of change in the use of AI by the insurance industry and promotes innovation, while protecting the consumer from harm.

### Fair and Ethical

- a. AI actors should respect the rule of law throughout the AI life cycle. This includes, but is not limited to, insurance laws and regulations, such as those relating to trade practices, unfair discrimination, access to insurance, underwriting, privacy, consumer protection and eligibility practices, ratemaking standards, advertising decisions, claims practices, and solvency.
- b. AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers and to avoid proxy discrimination against protected classes. AI systems should not be designed to harm or deceive people and should be implemented in a manner that avoids harmful or unintended consequences.

### Accountable

- a. AI actors should be accountable for ensuring that AI systems operate in compliance with these principles consistent with the actors’ roles, within the appropriate context and evolving technologies. Any AI system should be compliant with legal requirements

governing its use of data and algorithms during its phase of the insurance life cycle. Data supporting the final outcome of an AI application should be retained and be able to be produced in accordance with applicable insurance laws and regulations in each jurisdiction. AI actors should be responsible for the creation, implementation and impacts of any AI system, even if the impacts are unintended. AI actors should implement mechanisms and safeguards consistent with the degree and nature of the risks posed by AI to ensure all applicable laws and regulations are followed, including ongoing (human or otherwise) monitoring and, when appropriate, human intervention. However, absent negligence in the creation, implementation or monitoring of an AI system, the remedy of an impact that violates existing regulation should be correction of said impact.

### Compliant

- a. AI actors must have the knowledge and resources in place to comply with all applicable insurance laws and regulations. AI actors must recognize that insurance is primarily regulated by the individual states and territories of the United States as well as by the federal government, and that AI systems must comply with the insurance laws and regulations within each individual jurisdiction. Compliance is required whether the violation is intentional or unintentional. Compliance with legal requirements is an ongoing process. Thus, any AI system that is deployed must be consistent with applicable laws and safeguards against outcomes that are either unfairly discriminatory or otherwise violate legal standards, including privacy and data security laws and regulations. Any decision by an AI actor that utilizes an AI system in its creation shall not be held in violation of existing regulation, if that same decision would have been rendered without the use of an AI system.

### Transparent

- a. For the purpose of improving the public's confidence in AI, AI actors should commit to transparency and responsible disclosures regarding AI systems to relevant stakeholders, including consumers. AI actors must have the ability to protect confidentiality of proprietary algorithms and adherence to individual state law and regulations in all states where AI is deployed. These proactive disclosures include revealing the kind of data being used, the purpose of the data in the AI system and consequences for all stakeholders.
- b. Consistent with applicable laws and regulations, stakeholders (which includes regulators and consumers) should have a way to inquire about, review and seek recourse for AI-driven insurance decisions. This information should be easy-to-understand and describe the factors that lead to the prediction, recommendation or decision. This information may be presented differently and should be appropriate for applicable stakeholders.

### Secure, Safe and Robust

- a. AI systems should be robust, secure and safe throughout the entire life cycle so that in conditions of normal or reasonably foreseeable use, or adverse conditions, they can function in compliance with applicable laws and regulations. To this end, AI actors should ensure a reasonable level of traceability in relation to datasets, processes and decisions made during the AI system life cycle. AI actors should enable analysis of the AI system's outcomes, responses and other insurance-related inquiries, as appropriate in keeping with applicable industry best practices and legal requirements.
  
- a. AI actors should, based on their roles, the situational context and their ability to act, apply a systematic risk management approach to each phase of the AI system life cycle on a continuous basis to address risks related to AI systems, including privacy, digital security and unfair discrimination as defined by applicable laws and regulations.

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## Public Statement

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# Statement by the Staff Standards of Conduct Implementation Committee Regarding New Form CRS Disclosures

## Staff Standards of Conduct Implementation Committee

**July 27, 2020**

[1] Form CRS, which was adopted by the Securities and Exchange Commission (the “Commission”) in June 2019, is a brief relationship summary designed to help retail investors make informed choices regarding whether a brokerage or investment advisory relationship,[2] as well as whether a particular broker-dealer or investment adviser (each, a “firm”), best suits his or her particular needs and circumstances. In this way, the relationship summary was designed to reduce investor confusion in the marketplace for brokerage and investment advisory services and otherwise assist investors when they work with financial professionals. The relationship summary promotes transparency and better-informed decision making, through clear, concise disclosures, and by summarizing in one place selected information about a particular firm.[3] Both broker-dealers and investment advisers must provide to retail investors a relationship summary containing plain English disclosures on the same topics under standardized headings in a prescribed order, allowing retail investors to more easily compare different firms’ services, fees, and other important information.[4]

As of June 30th, firms began to deliver their relationship summaries to new and prospective retail clients and customers, as well as to existing retail clients and customers. Firms must also file their relationship summaries with the Commission and post the current relationship summary on the firm’s public website, if the firm has one.

The staff Standards of Conduct Implementation Committee (the “Committee”) is reviewing relationship summaries from a cross-section of firms to assess compliance with the content and format requirements of Form CRS.[5] The relationship summaries reviewed to date generally reflect effort by firms to meet the content and format requirements of Form CRS, and the Committee’s initial reviews have identified good examples of simple, clear disclosures. At the same time, the Committee’s initial reviews have identified examples that may lack certain disclosures or could be clearer or otherwise improved. The Committee will engage with firms to share best practices and provide feedback on the filings. Particular firms may need to consider ways to improve their relationship summaries and determine whether any specific amendments, or broader change in their overall approach, would be appropriate. To provide an additional opportunity to share best practices and general feedback, the Committee plans to host a roundtable this fall where Commission staff will be able to share additional thoughts following the Committee’s review of firms’ initial relationship summaries. The roundtable date, agenda items, and logistical information will be made public as they are finalized.

As firms continue to review and refine their relationship summaries, we encourage them to again familiarize themselves with the specific requirements of Form CRS by reviewing the [Instructions to Form CRS](#), the [Form CRS Adopting Release](#), the [Frequently Asked Questions on Form CRS](#), and the [Small Entity Compliance Guide](#). [6] Firms can also review the Office of Compliance Inspections and Examinations risk alert published in April, which shared the planned scope and content of its initial examinations, which began this month, assessing whether firms have made a good faith effort to implement Form CRS.[7] As a reminder, questions regarding Form CRS may be

directed to: [ABDQuestions@sec.gov](mailto:ABDQuestions@sec.gov). These resources are just a few of the ways in which the Commission and Commission staff have engaged, and continue to engage, extensively with firms, retail investors, and other market participants, as well as FINRA and other regulatory partners, regarding the implementation of Form CRS to improve the quality and transparency of firms' relationships with their retail investors.<sup>[8]</sup> The staff remains committed to continuing this engagement.

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[1] This statement represents the views of Commission Staff. It is not a rule, regulation, or statement of the Securities and Exchange Commission ("Commission"). The Commission has neither approved nor disapproved its content. This statement, like all staff statements, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

[2] For purposes of Form CRS, a "retail investor" is defined as "a natural person, or the legal representative of such natural person, who seeks to receive or receives services primarily for personal, family or household purposes." Exchange Act Rule 17a-14(e)(2); Advisers Act Rule 204-5(d)(2).

[3] See Form CRS Relationship Summary; Amendments to Form ADV, Exchange Act Release No. 86032, Advisers Act Release No. 5247 (June 5, 2019) ("Form CRS Adopting Release"), available [here](#).

[4] See Exchange Act Rule 17a-14; Advisers Act Rule 204-5.

[5] The inter-Divisional Standards of Conduct Implementation Committee was established when Form CRS was adopted, and includes representatives from the Division of Investment Management, Division of Trading and Markets, Division of Economic and Risk Analysis, and Office of Compliance Inspections and Examinations. See SEC Adopts Rules and Interpretations to Enhance Protections and Preserve Choice for Retail Investors in Their Relationships With Financial Professionals (Jun. 5, 2019), available [here](#).

[6] The Form CRS Adopting Release is available [here](#); the Small Entity Compliance Guide is available [here](#); and the Frequently Asked Questions on Form CRS are available [here](#).

[7] See Office of Compliance Inspections and Examinations, "Risk Alert – Examinations that Focus on Compliance with Form CRS" (Apr. 7, 2020), available [here](#).

[8] Among these resources is a Spotlight Page for relevant materials, including releases, comment letters, speeches, press releases and transcripts, available [here](#). See also SEC Chairman Jay Clayton, "Confirmation of June 30 Compliance Date for Regulation Best Interest and Form CRS" (Jun. 15, 2020), available at <https://www.sec.gov/news/public-statement/clayton-compliance-date-regulation-best-interest-form-crs>; SEC Chairman Jay Clayton, "Investors Remain Front of Mind at the SEC: Approach to Allocation of Resources, Oversight and Rulemaking; Implementation of Regulation Best Interest and Form CRS" (Apr. 2, 2020), available at <https://www.sec.gov/news/public-statement/statement-clayton-investors-rbi-form-crs>.