

Agenda

**CEFLI Regulatory Forum Meeting
Wednesday, January 27, 2021
2 PM-3:30 PM EST/1 PM-2:30 PM CST/11 AM-12:30 PM PST
Via CiscoWebEx**

Link: <https://cefli.webex.com/cefli/j.php?MTID=mac65d1bc7aed15412d76d727ed21b68f>
Meeting Number: 132 339 4621
Password: ethics2021

- I. Welcome and Introduction. Donald J. Walters**
- II. Antitrust Statement. Donald J. Walters**
- III. Regulator Interview. State Insurance Regulatory Panel**

We are pleased to have with us three leading state insurance regulators who will share their perspectives on a variety of marketplace issues. Our faculty members are:

- Nour Benchaaboun - Maryland Insurance Administration;
- John Haworth - Washington State Office of the Insurance Commissioner; and
- Richard Wicka - Wisconsin Office of the Insurance Commissioner.

IV. Overview and Discussion of Current Regulatory Issues. Regulatory Forum

A. Impact of Biden Administration on Regulatory and Operating Environment.

With the inauguration of the new Biden Administration, questions have arisen with respect to the impact of the Biden Administration on the environment in which regulators and life insurance companies operate.

While it may be too soon to tell what impact the new Biden Administration may have upon the financial services industry more broadly, we do know that President Biden has identified Gary Gensler, former Chair of the Commodity Futures Trading Commission, as his nominee to serve as Chair of the SEC and has identified current Commissioner Allison Herren Lee to serve as the Acting Interim Chair of the SEC until Mr. Gensler receives Senate confirmation. Recently, President Biden announced a 60 day “freeze” on regulations which

may allow the Biden Administration to review the new DOL Fiduciary Rule to determine whether it should be modified from its original promulgation.

Members of the Regulatory Forum will be asked to share their views on the potential impact the new Biden Administration may have upon the environment in which regulators and life insurance companies operate.

- B. Long Term Impact of the COVID-19 Pandemic on Regulatory and Operating Environment.
 - 1. Distribution Practices, Company Compliance Strategies and Regulatory Oversight.

The COVID-19 pandemic has had significant impacts on our society over the past several months. Regulators and life insurance companies have had to modify their practices to accommodate the unusual circumstances associated with the COVID-19 pandemic.

We have observed a shift toward accelerated use of technology by both regulators and life insurance companies which may lead to changes in product distribution practices, company compliance strategies and regulatory oversight.

Members of the Regulatory Forum will be asked to share their views on whether the current COVID-19 pandemic environment may have long-term implications for the manner in which regulators and life insurance companies operate.

- 2. FINRA Regulatory Notice 20-42 - FINRA Seeks Comments on Lessons from the COVID-19 Pandemic.

In [Regulatory Notice 20-42](#), FINRA is actively seeking comments to receive feedback on “lessons learned” that firms may have experienced due to changes they may have made to their business operations to accommodate the demands of the COVID-19 pandemic environment.

In addition, FINRA is seeking comment on whether it should consider changes to its rules, operations or administrative processes to address “anticipated long-term impacts of the pandemic on member firms and investors.”

Members of the Regulatory Forum will be asked to share their perspectives on FINRA Regulatory Notice 20-42 and the extent to which they anticipate long-term impacts of the COVID-19 pandemic on their future operations.

C. Revised NAIC Suitability in Annuity Transactions Model Regulation.

1. State Adoption Activity.

The NAIC recently adopted [revisions to its NAIC Suitability in Annuity Transactions Model Regulation](#) to incorporate a best interest standard to conform with the requirements of the SEC's Regulation Best Interest.

The revised Model Regulation has been adopted/enacted in several states including: Arizona, Arkansas, Iowa, Michigan and Rhode Island. Regulations/legislation has been introduced in several other states including Alabama, Delaware, Kentucky, Maine, Nebraska, North Dakota, and Ohio.

Members of the Regulatory Forum will be asked to share their perspectives on plans for various states to adopt the revised version of the NAIC Suitability in Annuity Transactions Model Regulation in their jurisdictions.

2. Frequently Asked Questions - Revised NAIC Suitability in Annuity Transactions Model Regulation.

The NAIC recently issued a draft of [Frequently Asked Questions](#) designed to assist in uniform adoptions of the revised NAIC Suitability in Annuity Transactions Model Regulation across all jurisdictions.

The Frequently Asked Questions document seeks to provide interpretive guidance for states regarding the implementation and enforcement of the revised Model Regulation's requirements.

Members of the Regulatory Forum will be asked to discuss the current status of the Frequently Asked Questions document and the extent to which it is being used by states to assist in uniform adoptions of the revised Model Regulation.

D. SEC Statement on Recent and Upcoming Examinations - Regulation Best Interest.

On October 26, 2020, the SEC conducted a Regulation Best Interest Roundtable to allow representatives of the SEC staff and FINRA staff to comment upon their experiences in conducting examinations to determine "good faith efforts" to comply with Regulation Best Interest.

On December 21, 2020, the SEC released a [Statement on Recent and Upcoming Regulation Best Interest Examinations](#). The Statement built upon

some of the examination findings that were expressed at the SEC Roundtable on Regulation Best Interest.

In the Statement, the SEC indicated its intent to expand the scope of examinations in 2021 that “focus on specific requirements of the Regulation, including those that go beyond suitability standards and require broker-dealers to have a reasonable basis to believe that recommendations are in retail customers’ best interests.” According to the statement, the SEC intends to conduct “enhanced transaction testing” to determine whether broker-dealers have implemented their written policies and procedures effectively.

Members of the Regulatory Forum will be asked to discuss plans to expand the scope of examinations in 2021 to determine appropriate compliance with the requirements of Regulation Best Interest and Form CRS.

E. SEC and FINRA Examination Priorities.

Every year, the SEC and FINRA publish a list of their Examination Priorities to alert member firms regarding areas that may be subject to heightened review as part of overall firm examination practices.

Members of the Regulatory Forum will be asked to discuss plans to publish the SEC and FINRA Examination Priorities for 2021.

F. FINRA Branch Office Inspections.

FINRA Rule 3110 requires member firms to supervise the activities of their associated persons and to conduct on-site inspections of all branch offices in other business locations.

In light of the COVID-19 pandemic, firms have found it difficult to conduct these on-site inspections in person and, therefore, have conducted branch office inspections virtually.

Given these operational challenges, FINRA has extended the time by which member firms must complete their calendar year 2020 inspection obligations to March 31, 2021.

Members of the Regulatory Forum will discuss the challenges associated with conducting branch office inspections virtually and will also discuss FINRA’s extension of time until March 31, 2021 to complete their branch office inspection requirements under FINRA Rule 3110.

G. Senior Financial Exploitation.

1. State Regulatory Developments.

Concerns continue to exist with respect to the financial exploitation of seniors. Increasingly, life insurance companies have been dedicating distinct operational units to address suspected instances of senior financial exploitation.

To date, 30 states have enacted legislation to protect seniors and vulnerable investors from financial exploitation. These statutes provide financial services firms with civil and administrative immunity for making a good-faith report of suspected instances of financial exploitation of seniors to government agencies.

Members of the Regulatory Forum will be asked to discuss ongoing efforts by state regulators to address concerns regarding financial exploitation of seniors in the financial services marketplace.

2. FINRA Regulatory Notice 20-37 - National Adjudicatory Council (NAC) Revises Sanction Guidelines.

In FINRA [Regulatory Notice 20-37](#), FINRA announced revisions to its Sanction Guidelines. Specifically, NAC amended the Principal Considerations in Determining Sanctions section of the FINRA Sanction Guidelines to consider a customer's age or physical or mental impairment that may render an individual unable to protect his or her own financial interests. The amendments reflect NAC's concern regarding financial elder abuse with a view toward potentially imposing more severe sanctions in cases involving senior investors or mentally impaired customers.

Members of the Regulatory Forum will be asked to discuss federal efforts to address concerns regarding financial exploitation of seniors in the financial services marketplace.

H. Leadership Changes.

1. NAIC.

The NAIC recently announced new leadership changes as follows:

- David Altmaier - Florida Insurance Commissioner - NAIC President;
- Dean Cameron - Idaho Insurance Director - NAIC President-Elect;
- Chlora Lindley-Myers - Missouri Insurance Director - NAIC Vice President; and
- Andrew Mais - Connecticut Insurance Commissioner - NAIC Secretary-Treasurer.

2. SEC.

- Chair Nominee: Gary Gensler (former Chair Commodity Futures Trading Commission); and
- Interim Chair: Allison Herren Lee - SEC Commissioner.

Members of the Regulatory Forum will be asked to discuss the potential impact of these new leadership changes within state insurance regulation and federal securities regulation.

V. Other Business.