

Agenda

CEFLI Compliance & Ethics Committee Meeting
Wednesday, June 9, 2021
2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT
Dial In: (800) 239-9838
Passcode: 1022068

- I. **Welcome and Introduction.** **Donald J. Walters**
 - A. Antitrust Statement.
- II. **Approval of Minutes – May 12, 2021 Meeting.** **The Committee**
- III. **Issues for Review.** **The Committee**
 - A. Coronavirus (COVID-19).

As more and more Americans become vaccinated against COVID 19, companies across America may be recalibrating their return-to-work and travel policies in light of changed circumstances.

Our agendas for future Committee meetings over the next several months will continue to explore the extent to which new developments related to further opening of the economy in light of the vaccinations against the COVID-19 pandemic may impact companies' strategies regarding having their employees return to work or lifting prior restrictions on company-related travel.

The Committee will be asked to discuss whether recent developments related to increased vaccinations against COVID 19 may have prompted companies to recalibrate their return to work and travel policies.

- B. Maintaining a Culture of Compliance and Ethics in a “Hybrid” Work Environment.

We are likely to see companies implementing a variety of different return to work and work-at-home strategies over the next several months. In some cases, companies will be allowing “waves” of employees to return to work over different time frames thereby creating a dynamic and evolving “hybrid” work environment (i.e., some employees in the office and some employees working from home).

This “hybrid” work environment potentially creates unique challenges in an effort to maintain a culture of compliance and ethics within organizations.

Therefore, several questions have been presented concerning this changing environment:

- *Has your company considered possible changes to elements of its compliance and ethics programs to accommodate a work environment that includes employees who work at the office and others who work at home?*
- *What types of activities (e.g., communications, events etc.) are most conducive to promoting a sound culture of compliance and ethics in a “hybrid” work environment?*
- *How do you see future return-to-work/work-from-home strategies impacting corporate culture over the months ahead?*

The Committee will be asked to comment upon how the evolving “hybrid” work environment may impact elements of compliance and ethics programs designed to instill a culture of compliance and ethics at life insurance companies.

C. Training Requirements - NAIC Suitability in Annuity Transactions Model Regulation - One (hour) Credit Course - Availability and Reciprocity - 6 Month Grace Period Expiration.

Several states have begun to adopt the 2020 revisions to the NAIC Suitability in Annuity Transactions Model Regulation. Several adopted versions of the Model Regulation (specifically, in Arizona and Iowa) include a provision that permits a producer who has already completed an annuity training course prior to the effective date of the Regulation to fulfill their training requirements by completing either: a new 4-hour training course or an additional 1-hour training course within 6 months of the effective date of the Regulation.¹

As a result, many existing producers have chosen to fulfill this training requirement using the 1-hour training course.

¹ Sections 7.B.(6) and (10) Producer Training. NAIC Suitability in Annuity Transactions Model Regulation.

- (6) A producer who has completed an annuity training course approved by the department of insurance prior to [insert effective date of amended regulation] shall, within six (6) months after [insert effective date of amended regulation], complete either:
- (a) A new four (4) credit training course approved by the department of insurance after [insert effective date of amended regulation]; or
 - (b) An additional one-time one (1) credit training course approved by the department of insurance and provided by the department of insurance-approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended regulation.
- (10) The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

However, the 6 month “grace period” following the effective date of the Regulation in many states is scheduled to expire on July 1, 2021. Questions have surfaced regarding whether the 1-hour training course will be available on vendor platforms after July 1, 2021 in selected states.

These developments raise several practical operational questions:

- *How are insurers interpreting the language of the revised Model Regulation pertaining to availability of the 1-hour training course after July 1, 2021 (i.e., will states like Arizona and Iowa “shut off” availability of the 1-hour training course after July 1, 2021)?*
- *Though some vendors have indicated the 1-hour training course will not be available after July 1, 2021, are insurers interpreting the applicable language differently?*
- *Are you accepting reciprocity if a producer were to fulfill their training requirement by taking the 1-hour training course in a state that still permits it?*
- *Are you advising your producers to complete their 1-hour training requirement if they intend to sell products in states have adopted the revised version of the Model Regulation with this provision?*
- *Which state adoptions do you see as impacted by the potential 1-hour training course expiration?*

The Committee will be asked to discuss the implications of the possible July 1, 2021 expiration of the 1-hour training opportunity available to producers who previously undertook annuity training requirements prior to the effective date of adoption of the revised NAIC Suitability in Annuity Transactions Model Regulation in selected states.

D. Compliance Risk Assessments.

Conducting risk assessments is an essential task for many compliance leaders. These activities may be conducted separately by the Compliance Department or may be embedded as part of a component of overall Enterprise Risk Assessment activities.

Moreover, these Compliance Risk Assessments may be helpful in assisting compliance leaders to allocate resources appropriately to address identified risks.

Several questions have been presented concerning Compliance Risk Assessments including:

- *Does your Compliance Department conduct separate Compliance Risk Assessments or are Compliance Risk Assessments embedded within overall Enterprise Risk Assessment activities? If the latter, who performs the Compliance Risk Assessment: Compliance or Enterprise Risk Management?*
- *Who receives reports of the Compliance Risk Assessment (e.g., the company's Board of Directors or appropriate Board Committee, Senior Management, Chief Risk Officer, etc.)?*
- *Does your company perform a "gap analysis" to determine if particular areas of risk are not sufficiently addressed in policies, controls or training? If so, how often does this "gap analysis" take place?*

The Committee will be asked to discuss their practices with respect to conducting Compliance Risk Assessments.

E. Update on Regulatory Examination Experiences.

The life insurance industry is a heavily regulated business. State and Federal regulators are continually conducting oversight activities (i.e., examinations) to determine compliance with applicable laws and regulations.

As we approach the one-year anniversary of the effective date of the SEC's Regulation Best Interest, questions have been presented concerning a range of regulatory examination activities for discussion by the Committee.

1. SEC Examinations - Form CRS and Regulation Best Interest.

In the months following the June 30, 2020 effective date of Form CRS and Regulation Best Interest, FINRA and the SEC indicated that their examination activities will be designed to determine a "good faith effort" to comply with these regulatory requirements.

However, over the past several months, there have been reports suggesting that FINRA and the SEC are now conducting examinations to confirm actual compliance with Form CRS and Regulation Best Interest requirements. These examinations have focused on, among other matters, heightened review of transactional testing (including annuity products), conflicts of interest disclosures, and appropriate modifications to existing policies and procedures or development of new policies and procedures to accommodate the specific requirements of Form CRS and Regulation Best Interest.

2. State Securities Examinations.

We have also heard reports of increased examination activities by state securities regulators.

Some states have reportedly expanded the number of examiners on their staff and, therefore, have taken a more active role in conducting examination activities.

3. State Insurance Department Examinations.

State insurance departments continue to conduct a variety of regulatory oversight activities including data calls and other types of market analysis activities.

It is not unusual for life insurance companies to manage regulatory requests from several jurisdictions simultaneously.

The Committee will be asked to discuss their recent experiences undergoing examinations: (1) from FINRA and the SEC concerning Form CRS and Regulation Best interest; (2) from State Securities Regulators; and (3) from State Insurance Departments.

F. Possible Updates - Utah Senate Bill 79 - Proof of Delivery of Lapse Notices.

The Committee discussed previously the requirements of [Utah Senate Bill 79](#) which contains a provision regarding proof of delivery of lapse notices.

Since this legislation became effective on May 5, we agreed to continue to revisit this issue for any possible updates.

The Committee will be asked to comment upon any updated developments with respect to Utah Senate Bill 79 and its requirement to provide proof of delivery of lapse notices.

IV. Reporting Items.

CEFLI Staff.

A. Revised NAIC Suitability in Annuity Transactions Model Regulation.

1. State Adoptions.

CEFLI continues to monitor developments related to possible adoptions of the revised NAIC Suitability in Annuity Transactions Model Regulation in various states.

To date, CEFLI is aware of the following state adoptions of the revised Model Regulation: Arizona, Arkansas, Delaware, Idaho, Iowa, Michigan, Montana, Nebraska, North Dakota, Ohio and Rhode Island.

It is anticipated that other states will be introducing similar legislation/regulations over the next several months. CEFLI is aware of proposals in the following states: Alabama, Connecticut, Kentucky, Maine, Nevada, Texas and Virginia.

The Committee will be asked to discuss any updated developments with respect to plans by states to introduce legislation/regulations to adopt the revised NAIC Suitability in Annuity Transactions Model Regulation.

B. FINRA Regulatory Notice 21-18 - Account Takeovers.

FINRA recently released [Regulatory Notice 21-18](#) to share practices firms use to protect customers from online account takeover attempts.

While this issue has also been prevalent in the life insurance industry, the practices identified in Regulatory Notice 21-18 may be instructive in determining cybersecurity intrusions for all organizations in the financial services industry.

C. NYC Bar - Framework for Chief Compliance Officer Liability in the Financial Sector.

The New York City Bar recently released a report entitled: [Framework for Chief Compliance Officer Liability in the Financial Sector](#).

The report was developed in light of concerns regarding increased enforcement actions holding Chief Compliance Officers personally liable for transgressions of their companies.

The Framework describes nonbinding factors for the SEC to consider in determining whether to charge a Chief Compliance Officer with personal liability.

D. Washington Cares Act - Long Term Care Insurance.

The Washington Cares Act represents the first time that a state has approved a payroll tax to raise money to cover long-term care costs for its residents. The Washington Cares Act will provide qualifying residents with up to \$36,500 of inflation-adjusted future benefits to pay for long-term care costs.

Beginning in January 2022, a tax of 0.58% will apply to W-2 reported earned income (with no limits) to fund the long-term care program.

However, Washington state residents may opt out of the tax by purchasing a private long-term care insurance policy before November 1, 2021.

Once an exemption from the tax has been granted by the State of Washington to a taxpayer, the taxpayer is forever prohibited from participating in the Washington long-term care program.

These developments will result in a confusing marketplace for long-term care insurance products over the next several months.

E. Google Health Insurance Advertising Certification.

Google recently updated its healthcare and medicines policy to require certification for health insurance advertising in the United States.

Advertisers will need to be certified as a provider of health insurance before they can advertise on Google.

The process used to obtain Google certification requires prospective advertisers to submit copies of actual licenses (e.g., copies of records of from the National Insurance Producer Registry are not sufficient). This will require companies to contact state insurance departments directly to obtain copies of their applicable health insurance licenses.

According to Google: “Violations of this policy will be considered to be non-egregious and will therefore not lead to immediate account suspension without prior warning. Repeated violations could lead to account suspension.”

V. CEFLI Activities.

A. Webinar - SEC Regulation Best Interest Examinations Update - How the New SEC Chair May Enforce Regulation Best Interest - Joint Webinar: Faegre Drinker - Wednesday, June 16.

CEFLI will be conducting the next installment of its Educational Webinar Series with a session to explore how the SEC’s new Chair, Gary Gensler, and the Division of Examinations may choose to enforce compliance with Regulation Best Interest.

The SEC has indicated plans to conduct compliance examinations in the coming months that will undoubtedly be more thorough than the “good faith” examinations conducted over the past several months.

Registration information for the webinar can be found on [this page](#) of CEFLI.org. The webinar will be conducted via WebEx.

Please plan to join us!

B. Webinar - An Insurer's Guide to the DOJ's Guidance for Effective Compliance Programs - Joint Webinar: Deloitte

CEFLI conducted a recent session of its Educational Webinar Series devoted to evaluating what steps companies may want to take in response to the recent updating of the DOJ's Guidance for Effective Corporate Compliance Programs. The webinar explored the increasing sophistication expected by regulators regarding insurers' ability to demonstrate that their Corporate Compliance Programs, in both design and practice, work effectively.

The recorded webinar and presentation materials can be accessed from [this page](#) of CEFLI's website.

C. Advertising Review Networking Forum.

CEFLI's Advertising Review Networking Forum met on Tuesday, June 8th. The Forum meets bi-monthly to discuss current compliance challenges related to advertising review. Individuals interested in joining the Forum may contact Nancy Perez at NancyPerez@CEFLI.org.

D. CEFLI Regulatory Forum.

CEFLI conducted a meeting of its Regulatory Forum on Tuesday, May 25th. CEFLI's Regulatory Forum meets several times per year with representatives of FINRA, the SEC, the NAIC and others to review contemporary compliance challenges in the financial services marketplace.

Our guest presenter for this Regulatory Forum meeting was Fred Reish, a partner with CEFLI Affiliate Member law firm Faegre Drinker and a nationally recognized expert on retirement planning issues. Mr. Reish provided an update on the DOL's Fiduciary Rule and anticipated future modifications to existing regulations.

CEFLI's Regulatory Forum is open for participation by CEFLI Premier Partner companies and Gold Affiliate Member organizations.

E. CEFLI Compliance Leadership Development Forum.

CEFLI conducted a meeting of its Compliance Leadership Development Forum on Thursday, June 3rd. The Compliance Leadership Development Forum meets quarterly to explore the essential elements of being effective as a compliance leader in the life insurance industry.

The focus of our most recent session was on the Importance of Communications in serving as a compliance leader in the life insurance industry. Tim Bolden, Chief Compliance Officer with American Fidelity Assurance Company, Sharon Pacheco, Chief Compliance Officer at Pacific Life and Wayne Smiley, Chief Compliance Officer at TIAA served as faculty for the session.

Participation in the Compliance Leadership Development Forum is available via registration only. CEFLI will be opening registration for a new cohort of future compliance leaders later this Fall. More information to follow in the coming months.

VI. Next Meeting.

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

Wednesday, July 21, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Other 2021 Committee meetings are scheduled to take place as follows:

Wednesday, August 11, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, September 15, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, October 13, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, November 10, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, December 8, 2021 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

Please mark your calendar and plan to join us!

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
May 12, 2021**

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

The following CEFLI member company representatives participated in the meeting:

Norman Von Seggern, AAA Life
Beth Braatz, Allianz
Keith Schroeder, American-Amicable Life
Megan Knapp, American Enterprise
Ryan Cole, American Enterprise
Dave Milligan, American Equity
Bill Turner, American Fidelity
Jason Broussard, American National
Laura Hughes, American National
Rebecca Criswell, Americo
Jessica Edmonds, Ameriprise Financial
Laurie Lewis, Amica
Chad Batterson, Athene
Christine Williams, Boston Mutual
Ann Binzer, Cincinnati Life
Steve Corbly, Cincinnati Life
Paula Gentry, Cincinnati Life
Jill Terry, Cincinnati Life
Larry Welch, Citizens
Renee Ambrosy, CNO Financial
Nancy Sweet, CNO Financial
De Keimach, Delaware Life
Jaime Waters, EquiTrust
Matthew Chisholm, Erie Life
Sabrina Olender, Foresters Financial
Jenna Austin, Guggenheim Life
Sonia Patel, Guggenheim Life
Emily Wilburn, Illinois Mutual
Deanna Horton, Illinois Mutual
Amy Capocci, John Hancock

Minutes – CEFLI Compliance & Ethics Committee Meeting

May 12, 2021

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Laura Priode, Kemper
Sakina Sharp, Kemper
Monica Sole, Lincoln Heritage
Sally Roudebush, Lincoln Heritage
Donna Brown, Lombard International
Kristi Diehl, Lombard International
Michelle Ross, Lombard International
Alison Soderberg, Lombard International
Jim Puhala, MassMutual
Ellen Reynolds, Modern Woodmen of America
Mary Daehn, Modern Woodmen of America
Molly Akin, Ohio National
Owen Kennedy, Ohio National
Lauren Barbaruolo, Oxford Life
Meagan Gonzales, Oxford Life
Martin Karp, Oxford Life
Lisa Hankins, Pacific Guardian Life
Monique Pascual, Pacific Guardian Life
Andrea Horrobin, Pacific Life
Eileen Jares, Pacific Life
Matt Missik, Pacific Life
Vickie Bulger, Primerica
Belinda Howard, Principal Life
Megan Phillips, Principal Life
George Cash, Protective Life
Ryan Schwoel, Protective Life
Chad Eslinger, Resolution Life US
Michelle Holmes, Resolution Life US
Patrick Wallen, Resolution Life US
Kathy Wiggins, Resolution Life US
Tracy Gardner, RiverSource
Mark Lasswell, RiverSource
Ryan Meehan, RiverSource
Dan LeBlanc, SBLI MA
Michele Kulish-Danielson, Sammons
Lori Straight, Sammons
Jill Williams, Sammons
Jeanine Berfeldt, Securian Financial
John Hite, Securian Financial
Jeff Holm, Securian Financial
Nate Kolle, Securian Financial
John Sarris, Southern Farm Bureau
Leslie Smith, Southern Farm Bureau
Mariah Rose-Hayman, State Farm Life
Lisa Holland, State Farm Life

Suzanne Leffler, State Farm Life
Anita Li, Sun Life Insurance
Stephanie Falls, Symetra Life
Leigh Mumford, TIAA-CREF
Krystal Jones, Texas Life
Katherine Murphy, USAA
Liza Perry, USA Life
Hannah Krone, Western & Southern
Carol Wanstrath, Western & Southern
Sande Chaffin, Wilton Re

Donald J. Walters, President & CEO, Carla Strauch, Vice President - Compliance & Ethics, and Mallory Hart, Director of Member Relations, Communications & 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 – April 14, 2021.

On motion, duly made and seconded and unanimously carried, the Committee: RESOLVED, that, the Minutes of the April 14, 2021 meeting are hereby approved.

III. Issues for Review.

The Committee

A. Coronavirus (COVID-19).

The Committee was asked to discuss any COVID-19 compliance-related issues, any updates with respect to return-to-work strategies and any plans to resume normal business travel in 2021.

Committee members shared insights regarding current return-to-office strategies. Several Committee members indicated their companies have surveyed employees to understand individual return-to-office preferences (e.g., use of masks, hybrid work-from-home and in-office schedules, social distancing preferences, etc.). One Committee member indicated the survey results may influence future company decisions regarding the size of the company's physical office space.

A Committee member indicated their company remains in Phase I with leadership strongly encouraging employees to return to the office to test the return-to-office protocols the company put in place. The company would like to enter Phase II (50% of staff in the office) this Summer and have 100% of staff return to the office

by Fall. At this point, no business travel has been authorized for 2021 since travel expenses were not included in the company's 2021 budget.

Another Committee member indicated their company plans to have 50% of staff in the office after Labor Day.

One Committee member commented on the challenges associated with having company employees in India, given the current state of the COVID-19 outbreak in that country. Committee members commented on the fact that their companies have not seen a significant degradation of services associated with company reliance on offshore support for IT systems and platforms.

B. New York Regulation 187 Deemed “Unconstitutionally Vague.”

On April 29, the Appellate Division of the New York State Supreme Court struck down New York's Regulation 187 for being “unconstitutionally vague.” (A copy of the Appellate Division decision can be found [here](#).)

In its unanimous decision, the Appellate Division stated, in pertinent part, that “... [Regulation 187] fails to provide sufficient concrete, practical guidance for producers to know whether their conduct, on a day-to-day basis, comports with [Regulation 187's] corresponding requirements for making recommendations in compiling and evaluating the relevant suitability information of the consumer.”

Committee members were asked to discuss their company strategies in light of the recent New York State Supreme Court Appellate Division decision deeming Regulation 187 to be unconstitutional.

The majority of Committee members indicated they are utilizing a wait-and-see approach, for now. As a result, they plan to retain their current New York Regulation 187 processes until they understand any next steps the New York Department of Financial Services (NY DFS) may plan to take.

One Committee member indicated a distribution partner pushed back on their company's Regulation 187 processes, following the court's decision.

Another Committee member indicated the NYDFS advised the American Council of Life Insurers (ACLI) that the Department has not decided what its next step will be.

A few Committee members expressed concern that the Regulation may be revised in a manner that is more prescriptive than the industry would prefer. Additionally, a Committee member shared that Iowa Commissioner Doug Ommen noted, during an NAIC Working Group call earlier in the week, that the four pillars of the current NAIC Suitability in Annuity Transactions Model Regulation meet the

prescriptive language requirement that the court felt was missing from New York Regulation 187.

C. Utah Senate Bill 79 - Proof of Delivery of Lapse Notices.

Utah recently enacted [Senate Bill 79](#) which contains a provision regarding proof of delivery of lapse notices. The requirements under the new law became effective on May 5.

The Utah legislation poses operational challenges for many life insurance companies. Among its provisions, the Utah legislation requires insurers to have proof of delivery of lapse notices (not proof of mailing) and requires lapse notices to be delivered 30 days before the lapse date identified in the policy. The new Utah law includes the following provision:

“Proof of delivery...may include a certified mail receipt or, for electronic delivery, a read receipt.”

Typically, life insurers will send lapse notices between 5-10 days after the policy due date. Generally, these notices will indicate that the policy will lapse unless the premium is paid within 30 days of the original due date.

However, since the new Utah law requires lapse notices to be delivered 30 days prior to the lapse date (i.e., which would require delivery of the lapse notice on the actual due date), compliance with the Utah legislation may effectively extend the grace period provided for in the policy. If so, this would establish special treatment for Utah policies that differs from other states.

Given the passage of this legislation, several operational questions were posed for discussion:

- *What steps will life insurers undertake to ensure proof of delivery of lapse notices?*
- *Will life insurers extend the policy lapse date for Utah policies to 30 days past the date of the reminder bill or lapse letter?*

The Committee was asked to discuss their practices to comply with the proof of delivery and timing of lapse notice requirements contained within Utah Senate Bill 79.

Members of the Committee shared insight regarding the delivery of the required Utah notice. One Committee member indicated their company implemented a manual work around. Utah lapse notices are pulled from the company's standard mailing process and are instead sent via certified mail. The Committee member noted the company plans to create a report containing Utah issued policies for its

external vendor for purposes of automating the process in the future. The Committee member indicated he understood that Utah is planning to issue a guidance document; guidance that may provide for less expensive operational solutions.

Another Committee member indicated they also adopted a similar manual process which relies on the utilization of intelligent bar coding (i.e., a bar code is added to the envelope) for most notices and the use of certified mail with some of the company's third-party administrators (TPAs). Notices also can be sent via FedEx (though USPS may be an alternative option). The scanned bar code then produces a delivery notice via email, as an alternative to the traditional, paper green card "return receipt" delivery notices associated with the use of certified mail.

A member of the Committee also shared insight regarding the handling of lapses. The Committee member indicated their company pulls its Utah grace period notices as soon as they are produced. This allows them to immediately begin a manual 30-day lapse notification process. The manual intervention minimizes the time a contract remains in a grace period before lapsing, while also providing for the Utah-required 30-day notice prior to a contract lapse.

D. Suppression of Contract Features or Indices.

When life insurance companies distribute products through broker-dealers, some broker-dealers may request that certain features or indices associated with a particular annuity product be "suppressed." These preferences may be due to the distributor's confidence in the indices.

In these scenarios, many BD's do not require marketing materials to be customized to delete the product features that may have been "suppressed."

Customers may receive disclosures which indicate that "not all strategies are available in all states and firms."

Life insurance companies may be interested in "suppression" to reach more distribution partners for more efficient launching of new products into the marketplace.

Several questions were presented concerning "suppression" practices:

- *Does your company allow broker-dealers to request "suppression" of contract features or indices?*
- *If so, are the "suppressed" features or indices available on renewal?*
- *If so, are the "suppressed" features or indices included in the contract materials or contract summary?*

- *If the “suppressed” features or indices are included in marketing materials, do you have a disclosure indicating that “some indices are not available in all states?”*

Committee members were asked to discuss their company practices with respect to requests from broker-dealers to “suppress” features or indices of certain annuity contracts.

One Committee member indicated their company allows Broker Dealers and third-party distributors to suppress product indices options. The Committee member indicated their company provides firm-specific marketing and product materials which indicate that product options may not be available for all consumers.

A Committee member advised that the NYDFS has asked questions in this area during examinations, suggesting that consumers may benefit from a disclosure indicating the company’s product offering may differ based on the distributor that the product is purchased through.

Committee members noted the challenges associated with accommodating the selling and product preferences of their distribution partners.

E. CCPA - Right to Know and Delete Requests.

The California Consumer Privacy Act (CCPA) grants California residents the right to know and delete personal information collected about them by a company.

Since the enactment of CCPA, life insurance companies have received requests from California consumers exercising their right to know and delete personal information maintained by their companies and affiliates (“CCPA requests”).

CCPA and other applicable laws (Graham Leach Bliley Act) contain various exemptions that may allow life insurance companies to maintain (rather than delete) a consumer’s personal information.

Several questions were presented concerning the process that is used by life insurance companies to respond to CCPA requests. For example:

- *Does your company provide a narrative response to CCPA requests?*
- *Does your company provide a chart containing the consumer’s information maintained by the company (or is this information also provided in narrative form)?*
- *Do you describe a consumer’s information in general categories or are specific details provided?*

- *What process is used to determine whether any exemptions apply, what information (if any) should be disclosed, and what information (if any) should be deleted?*

The Committee was asked to discuss their practices when responding to CCPA Right to Know and Delete requests.

Committee members were split regarding their experience in this area. While some Committee members indicated they had not received consumer requests, other Committee members acknowledged the receipt of consumer requests.

One Committee member indicated they have received 12-15 requests, also noting the manual nature associated with processing such requests, including the need to work closely with impacted business owners.

Another Committee member revealed their company has received several automated requests. The company has set up a portal on its website for purposes of directing such requests to a single staff member.

One Committee member shared that their company would destroy medical records in response to a consumer's request, but indicated the company's notes (i.e., underwriting notes, etc.) are not destroyed since the company is required to maintain the records it creates.

F. Fraud Prevention.

1. Verification of Identity of Claimants.

For beneficiaries of life insurance policies to receive policy benefits, they are required to submit a claim form to request receipt of benefits.

To prevent possible fraud, life insurance companies have implemented various procedures to confirm the identity of those submitting claim forms to receive policy benefits.

The question presented for discussion by the Committee pertained to the practices that companies may implement to confirm the identity of those submitting claim forms to receive policy benefits.

For example:

- *Does your company require claim forms to be notarized?*
- *Does your company use any third-party identity validation services (e.g., Accurint) to confirm the identity of claimants?*

The Committee was asked to discuss their practices to confirm the identity of policy claimants.

One Committee member indicated their company does not require notarization as part of the company's verification process but noted the company does require verification of bank account information, via GIACT. Additionally, if a beneficiary is a business, the company requires a corporate resolution to validate the beneficiary has the authority to file a claim.

The Committee was asked to provide information regarding the use of any third-party vendors for purposes of identify verification. Three Committee members indicated their companies utilize GIACT. Two Committee members also noted the use of Accurint, sometimes in conjunction with the use of GIACT.

One Committee member referenced the use of social media, Zoom recordings (from recorded funeral services) and online obituaries and tools to help validate the policy claimants.

2. Verification of Identity - Phone Withdrawals.

During last month's Committee meeting, the Committee discussed practices implemented by life insurance companies to prevent possible fraud associated with withdrawal requests submitted via phone.

During the discussion, the Committee was asked to identify various third-party vendors that might be available to work with life insurance companies to verify the identity of individuals that may be submitting withdrawal requests via phone.

A request was made to have the Committee revisit the issue to identify additional vendors that may assist life insurance companies in verifying the identity of individuals submitting withdrawal requests via phone.

Committee members had previously indicated their use of Pindrop and GIACT. During the May Committee meeting discussion, one Committee member noted their company's use of Lexis Verify, which offers an instant verification service. The policyholder is presented with three questions generated by the vendor's software tool. The policyholder's responses to the questions determine whether the policyholder request is likely legitimate.

One Committee member noted their company does not allow phone withdrawals.

3. Verification of Identity - Electronic Signatures/Wet Signature - Policy/Contract Holder Service Requests.

Life insurers are interested in simplifying the customer experience by allowing electronic signatures to suffice for purposes of purchasing life insurance policies or annuity contracts.

However, when life insurance policies or annuity contracts are issued with an electronic signature, questions arise with respect to verifying the identity of individuals requesting subsequent policy/contract holder services.

For example, since there is no wet signature on file to use for comparison purposes, some companies may return the service request to the policy/contract holder and require the policy/contract holder to have the request signed in front of a notary.

The Committee was asked to discuss their practices to verify the identity of policy/contract holders that may have purchased their life insurance policies or annuity contracts through an electronic signature and then may submit subsequent policy/contract holders service requests.

One Committee member indicated that insurers may want to ask their policyholders additional security questions or possibly reach out to the producer to determine whether the producer was aware of the policyholder's request. Another Committee member indicated some county real estate records contain signatures that may be used for comparison purposes.

IV. Reporting Items.

CEFLI Staff.

A. Revised NAIC Suitability in Annuity Transactions Model Regulation.

State Adoptions.

CEFLI continues to monitor developments related to possible adoptions of the revised NAIC Suitability in Annuity Transactions Model Regulation in various states.

To date, CEFLI is aware of the following state adoptions of the revised Model Regulation: Arizona, Arkansas, Delaware, Idaho, Iowa, Michigan, Nebraska, North Dakota, Ohio, and Rhode Island.

It is anticipated that other states will be introducing similar legislation/regulations over the next several months. CEFLI is aware of proposals in the following states: Alabama, Connecticut, Kentucky, Maine, Montana, Nevada, Texas, and Virginia.

The Committee was asked to discuss any updated developments with respect to plans by states to introduce legislation/regulations to adopt the revised NAIC Suitability in Annuity Transactions Model Regulation.

One Committee member noted that Connecticut has finalized its bill, that Montana's bill is awaiting the Governor's signature, and that Texas's bill has moved out of Committee, to the state's legislative process, and that it is expected to pass.

B. NAIC Approves Anti-Rebating Amendments to Unfair Trade Practices Model Act.

At its Spring National Meeting, the NAIC approved amendments to allow insurers to offer no cost or reduced cost value-added goods and services that may not be specified in the insurance contract. These products and services would have to provide related benefits such as mitigating losses, assessing risks, educating policyholders, and enhancing personal or financial health.

The efforts undertaken by the Innovation and Technology (TX) Task Force were designed to modernize out-of-date anti-rebating laws to allow more innovative practices to take place within the industry.

C. New York Issues \$3 Million Cybersecurity Fine.

In March 2017, New York issued Regulation 500 which imposed cybersecurity requirements for financial services companies including life insurance companies.

Recently, the New York Department of Financial Services fined National Securities Corporation \$3 million for violations of Regulation 500.

According to the NYDFS consent order, National Securities Corporation incurred its fine for data breaches that exposed sensitive, non-public personal data including a failure to implement multi-factor authorization and inaccurately certifying compliance with Regulation 500.

The consent order reinforces the seriousness of the NYDFS with respect to compliance with Regulation 500.

D. Advance Notification - Colorado Senate Bill 21-169 - Use of Data in Automated Underwriting.

A Bill is advancing within the Colorado legislature that may impact insurers' ability to use external consumer data, algorithms, or predictive models to underwrite life insurance policies.

Among its provisions, Colorado Senate Bill 21-169 would, as currently written:

Prohibit insurers from using external consumer data, algorithms or predictive models that unfairly discriminate against individuals based on membership in one of several protected classes.

E. Personnel Issues.

1. New Minnesota Insurance Commissioner - Grace Arnold.

Minnesota Governor Tim Walz appointed Grace Arnold as the Commissioner of the Minnesota Department of Commerce on April 15. Ms. Arnold served previously as Deputy Commissioner and has prior experience in healthcare and insurance policy.

2. SEC Acting Director Division of Enforcement - Melissa Hodgman.

Following the resignation of Alex Oh due to personal reasons after a few days on the job, the SEC announced that former Acting Director of the Division of Enforcement Melissa Hodgman will return to that role at the SEC.

V. CEFLI Activities.

A. Webinar - An Insurer's Guide to the DOJ's Guidance for Effective Compliance Programs - Joint Webinar: Deloitte

CEFLI announced that it would be conducting the next installment of its Educational Webinar Series with a session devoted to evaluating what steps companies may want to take in response to the recent updating of the DOJ's Guidance for Effective Corporate Compliance Programs. The webinar explores the increasing sophistication expected by regulators regarding insurers' ability to demonstrate that their Corporate Compliance Programs, in both design and practice, work effectively.

B. Webinar - Market Conduct - Compliance Risks Revisited - Joint Webinar: Wolters Kluwer Financial Services - Wednesday, April 21, 2021.

CEFLI recently conducted another installment of its Educational Webinar Series with a session devoted to reviewing recent market conduct enforcement actions in the life insurance industry to provide insight as to key issues that have been determined by regulators to pose compliance risks.

The webinar, featuring Kathy Donovan of CEFLI Affiliate Member Wolters Kluwer Financial Services, provided an analysis of recent market conduct enforcement actions to identify potential areas for heightened compliance scrutiny by life insurance companies.

The recorded webinar and presentation materials can be accessed from [this page](#) of CEFLI's website.

C. Compliance Fundamentals Training Conference - May 6-7, 2021.

CEFLI conducted its 2021 Compliance Fundamentals Training Conference (CFTC) on May 6-7 via WebEx.

CFTC is designed to allow individuals who may be new to the life insurance industry or new to compliance to receive a broad overview of a selected range of relevant compliance subject matters including:

- Life Insurance Company Distribution Systems and Regulatory Authorities;
- Overview of Life Insurance Company Products;
- Complaint Handling;
- Replacements;
- Advertising Review;
- Role of Compliance at a Life Insurance Company;
- Legislative and Regulatory Monitoring;
- State Insurance Regulatory Examination Process and its Impact Upon Compliance;
- Evolving State and Federal Sales Standards;
- Working with Business Partners; and
- A Virtual Networking Reception.

The recorded webinar and presentation materials for all sessions can be accessed from [this page](#) of CEFLI's website.

D. Advertising Review Networking Forum.

CEFLI's Advertising Review Networking Forum will meet on Tuesday, June 8th. The Forum meets bimonthly to discuss current compliance challenges related to advertising review. Individuals interested in joining the Forum may contact Nancy Perez at NancyPerez@CEFLI.org.

VI. Next Meeting.

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

Wednesday, June 9, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Other 2021 Committee meetings are scheduled to take place as follows:

Wednesday, July 21, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, August 11, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, September 15, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, October 13, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, November 10, 2021 - 2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT

Wednesday, December 8, 2021 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

Please mark your calendar and plan to join us!

VII. Other Business.

One Committee member shared that the NAIC's Suitability in Annuity Transactions Working Group met during the previous week to put the finishing touches on the Working Group's Frequently Asked Questions (FAQs) document. The document is now headed to the NAIC Life Insurance and Annuities (A) Committee for a vote. The Working Group will continue to meet to address issues related to insurers who operate under the Safe Harbor provision of the Model Regulation.