

## Agenda

**CEFLI Compliance & Ethics Committee Meeting**  
**Thursday, August 10, 2023**  
**2 PM ET/1 PM CT/12 Noon MT/11 AM PT**  
**Via Webex**

If you have not already registered to attend the meeting, please click on the link below or cut-and-paste the link into your browser to receive a WebEx calendar invitation with access information to join the meeting.

<https://cefli.webex.com/weblink/register/rd62f1042551e5697134dad9ecab2af58>

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|-------------|---|---|
| <b>I.</b>   | <b>Welcome and Introduction.</b>                    | <b>Donald J. Walters</b>                  |
|             | <b>A.</b>   | <b>Antitrust Statement.</b>               |
| <b>II.</b>  | <b>Approval of Minutes – July 13, 2023 Meeting.</b> | <b>The Committee</b>                      |
| <b>III.</b> | <b>Issues for Review.</b>                           | <b>The Committee</b>                      |
|             | <b>A.</b>   | <b>State of California Illustrations.</b> |

The State of California, like many other jurisdictions, maintains laws specific to types of disclosures that should be contained within illustrations for life insurance and annuity products. These laws describe required practices as well as prohibited practices related to the use of illustrations. Such regulations include the following:

[California Insurance Code Section 10127.11](#); and  
[California Insurance Code Sections 10509.950 – 10509.965](#).

Several questions have been presented concerning developing appropriate policies and procedures to comply with California illustration requirements. These questions include:

- *Do you show guaranteed values on your illustrations?*
- *Do you show the columns of guaranteed values in bold print?*
- *What do you consider to be a preprinted illustration?*
- *Do you follow similar policies and procedures for “in-force rejections” as well?*

*The Committee will be asked to discuss company strategies with respect to the use of illustrations in the State of California.*

**B. Department of Insurance “Inquiries” - Complaint Database Management.**

Life insurance companies receive “inquiries” from state insurance departments. These “inquiries” may be requests for general information concerning the company’s practices or may request information specific to a company’s policies and procedures, products and distribution systems.

In recent years, state insurance departments have become more active with submitting “inquiries” regarding a range of matters including policy locator services.

To the extent that your company receives “inquiries” from state insurance departments (that may pertain to policy locator questions), does your company log these “inquiries” into your complaint database (even though the inquiry may have nothing to do with an allegation of violations of laws or regulations) or does your company not log these “inquiries” from state insurance departments into your complaint database?

*The Committee will be asked to discuss how their companies log “inquiries” from state insurance departments that may pertain to, but are not limited to, “inquiries” concerning policy locator services.*

**C. Best Practices Regarding “On-Site” Audits of TPAs That Operate Virtually.**

State laws and regulations require insurers to conduct oversight of Third Party Administrators (TPAs) who are contracted to conduct duties on behalf of an insurer. Many of these laws and regulations require the insurer to conduct an annual “on-site” audit of the TPA.

During the COVID-19 pandemic, many states relaxed their “on-site” audit requirements. At the same time, some TPAs modified their business model to allow some or all of their staff to work remotely or “virtually.”

Now that the COVID-19 pandemic has largely abated, many states are now requiring “on-site” audits of TPAs but, with some TPAs continuing to operate “virtually,” “on-site” audits of TPAs may be impractical, if not impossible.

This dilemma presents several questions:

- *Are other companies working with TPAs that operate “virtually” on a full or part-time basis?*
- *If so, what modifications have you made to your TPA oversight program in instances in which a TPAs operating virtually?*
- *Are insurers using cameras, FaceTime or other means (e.g., someone walking around with a phone camera to show the auditors the “TPA site” remotely) to “view” remote locations during an audit?*

***The Committee will be asked to discuss their practices in conducting “on-site” audits of TPAs who may operate in a “virtual” environment.***

#### **D. Data Governance - Artificial Intelligence - Colorado Regulation and NAIC Bulletin.**

The proposed [Colorado Artificial Intelligence Regulation](#) (the “Colorado Regulation”) contains requirements for insurers to establish a governance and risk management framework to promote the appropriate (i.e., nondiscriminatory) use of Artificial Intelligence.

Recently, the NAIC also issued an [Exposure Draft of a Model Bulletin](#) concerning the use of algorithms, predictive models and artificial intelligence systems by insurers. The NAIC Bulletin, like the Colorado Regulation, also includes a section describing regulatory expectations concerning governance structures to address insurers’ use of artificial intelligence systems.

As a result of these initiatives, there has been a request to engage in a discussion of the steps companies have taken in anticipation of the requirements of the Colorado Regulation as well as the NAIC Model Bulletin.

***The Committee will be asked to discuss their company’s strategies to develop appropriate governance structures to meet the anticipated requirements of the Colorado Regulation as well as the NAIC Model Bulletin.***

#### **E. Cash and Cash Equivalents.**

Life insurers accept premium payments for life insurance and annuity products in a variety of different forms.

In some cases, policyholders may attempt to pay premium payments in the form of cash or cash equivalents.

A question has been presented concerning whether companies conduct additional due diligence around transactions that may involve payment of premiums in the form of cash or cash equivalents.

*The Committee will be asked to discuss company strategies when presented with premium payments in the form of cash or cash equivalents.*

**F. “Other Pertinent Communications” - New York Claim Regulations.**

[Section 216.4 of 11 NYCRR 216](#) of New York Insurance Regulations considers failure to acknowledge pertinent communications as an unfair trade practice.

Section 216.4 reads, in pertinent part, as follows:

*(a) Every insurer, upon notification of a claim, shall, within 15 business days, acknowledge the receipt of such notice. Such acknowledgment may be in writing. If an acknowledgment is made by other means, an appropriate notation shall be made in the claim file of the insurer. Notification given to an agent of an insurer shall be notification to the insurer. If notification is given to an agent of an insurer, such agent may acknowledge receipt of such notice. Unless otherwise provided by law or contract, notice to an agent of an insurer shall not be notice to the insurer if such agent notifies the claimant that the agent is not authorized to receive notices of claims. (b) An appropriate reply shall be made within 15 business days on all **other pertinent communications (bold added)**.*

Recently, it has been reported that the New York Department of Financial Services (or “NYDFS”) has been focusing its attention on the “other pertinent communications” language of subparagraph (b) of Section 216.4. It also has been reported that violations of subparagraph (b) have been cited in Final Reports issued by the NYDFS.

Accordingly, several questions have been presented concerning this development:

- *Have any companies had experience with the New York Department of Financial Services with respect to subparagraph (b) of Section 216.4?*
- *If so, were “consumer complaints” (i.e., not just claims compliance) considered to be “other pertinent communications?”*

*The Committee will be asked to discuss company experiences, if any, with respect to the New York Department of Financial Services focusing on the*

***“other pertinent communications” language of subparagraph (b) of Section 216.4 of 11 NYCRR 216.***

#### **G. Unclaimed Property Vendors.**

Unclaimed Property has represented a significant issue for the life insurance industry over the past several years. Regulators continue to focus their attention on these issues during examination activities.

Given that Unclaimed Property remains a pervasive and important issue in the life insurance industry, a question has been presented concerning various vendors companies may use for Unclaimed Property or Social Security Death Master File matching purposes.

***The Committee will be asked to identify any vendors their companies may use to assist with Unclaimed Property or Social Security Death Master File matching matters.***

#### **H. Multi-Year Guaranteed Annuities (MYGA) - Notifications of Guaranteed Period End Date.**

Multi-Year Guaranteed Annuities (MYGAs) have become very popular products over the past several years.

When a MYGA product reaches its guaranteed period end date, what notifications, if any are required to be provided to customers upon expiration of the MYGA product guaranteed period.

These questions include:

- *What notifications are required to be sent to customers upon expiration of the MYGA product guaranteed period?*
- *What is the content of the notification (e.g., does it include payout options?)?*
- *When should the notification be sent (i.e., how many days prior to expiration of the guaranteed period?)?*
- *How should the notification be sent (i.e., directly to the consumer or sent via the agent?)?*
- *How much time is allowed for the customer to select a payout option?*
- *Is there a specific timeframe for selecting a replacement option?*

***The Committee will be asked to discuss company practices with respect to sending notifications regarding the end of the guaranteed period of a MYGA product.***

**I. NAIC Suitability in Annuity Transactions Model Regulation.**

The industry has been monitoring state-by-state adoptions of the 2020 revisions to the NAIC Suitability in Annuity Transactions Model Regulation (the “Revised Model Regulation”). As more and more states adopt the Revised Model Regulation, a series of questions has been presented to discuss regulatory perspectives with respect to compliance with the Revised Model Regulation.

These questions include:

- *Do most insurers take the position that they are ultimately responsible for compliance with all of the provisions of the Revised Model Regulation, even if they have independent producers?*
- *Do most state regulators take the position that insurers are ultimately responsible for all downstream compliance with their best interest/suitability laws?*
- *Does any company have experience with final market conduct reports that have been issued regarding compliance with the Revised Model Regulation?*
- *Is any company currently undergoing (or recently completed) a market conduct examination related to the Revised Model Regulation? If yes, what has been the focus of these examination activities?*

***The Committee will be asked to discuss company experiences, as applicable, related to the Revised Model Regulation and any examinations that may have taken place thus far to determine compliance with its requirements.***

**J. Qualified Plan Endorsements - IRA and Roth IRA Plans.**

Life insurers may be required to submit qualified plan endorsements for various types of retirement products. Specifically, in this instance, questions are being presented concerning qualified plan endorsements pertaining to IRA and Roth IRA Plans.

These questions include:

- *Do other companies draft their own qualified plan endorsements or do they purchase them from a third-party vendor?*

- *If a company is purchasing endorsements from the third-party vendor, does your company file the endorsements with the IRS or does the third-party vendor take care of the filing with the IRS?*
- *The COMPACT maintains standards for qualified plan endorsements. Has any company conducted a tax qualified endorsement filing with the COMPACT? If so, what was your experience and how long did it take for approval?*

***The Committee will be asked to discuss company experiences, if any, with respect to drafting qualified plan endorsements internally or purchasing qualified plan endorsements from a third-party vendor. Also, the Committee will be asked to comment upon their experiences, if any, with respect to filing a qualified plan endorsement with the COMPACT.***

#### **K. AML Practices - Free Looks.**

Consumers purchasing life insurance and annuity products are offered an opportunity to conduct a “free look” of the product and, if deemed to be inappropriate or unsatisfactory, they may return the product to the insurer during the “free look” period.

When consumers purchase life insurance and annuity products, company money-laundering (AML) practices will often include in OFAC check to determine whether the consumer may be subject to restrictions with respect to purchasing life insurance and annuity products from insurers.

A series of questions has been presented concerning a scenario in which a consumer purchases a product through an insurer, the source of funds is a U.S. Bank (not currency), an OFAC check has been completed which generates no “hits” and the transaction has gone through underwriting and is issued.

Under this scenario, if the customer initiates a “free look” of the product:

- *Would that “free look” request trigger any additional AML analyses?*
- *For example, would there be a subsequent re-review of the transaction or would there be reliance solely on the front-end AML review process?*

***The Committee will be asked to discuss company practices with respect to conducting an AML review of “free look” transactions.***

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

##### **A. NAIC Activities - State Adoptions - Revised NAIC Suitability in Annuity Transactions Model Regulation.**

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 40 state adoptions of the revised Model Regulation: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

CEFLI is aware of 6 states with best interest proposals: California, Indiana, Louisiana, Nevada, Utah and Vermont.

A member of the Committee has also reported that suitability forms used in West Virginia must be filed with the West Virginia Office of the Insurance Commissioner.

*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. New York Circular Letter No. 6 (2023) - Unfair Discrimination.**

The NYDFS recently issued [Circular Letter No. 6 \(2023\)](#) pertaining to unfair and unlawful discrimination in the sale of life insurance and annuity products in New York State.

The Circular Letter discusses company practices of providing “different or proprietary products” to different consumers as part of a marketing strategy utilizing different producers.

The Circular Letter notes that consumers may be unaware that other versions of the product may be offered by the insurer and, therefore, these practices may have the potential to violate New York Insurance Law pertaining to unfair discrimination.

##### **C. SEC Proposed Rules - Conflicts of Interest Associated with the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers.**

The SEC recently issued [proposed rules](#) to address potential conflicts of interest associated with broker-dealers’ or investment advisers’ use of predictive data



analytics.

Some industry observers have suggested that these proposed rules, if adopted, would expand the scope of Regulation Best Interest. Others have suggested that the proposed rules go beyond artificial intelligence and other sophisticated technologies to include basic spreadsheets and calculators.

#### **D. SEC Fines - Use of Personal Messaging Apps.**

The SEC recently fined nine companies a total of \$549 million over employees' use of personal messaging apps to discuss deals, trades and other business.

These actions confirm the SEC's enforcement focus on targeting business communications sent via text and WhatsApp messaging due to the concern that the use of such technologies may circumvent firm rules regarding record retention of work-related communications.

#### **E. SEC Risk Alert - AML Compliance - Examinations of Broker-Dealers.**

The SEC recently issued a [Risk Alert](#) to outline key findings as a result of examinations of broker-dealers with respect to their anti-money-laundering (AML) practices.

Two key findings included:

- Firms that did not devote sufficient resources to AML compliance (and staffing) given the volume and risks of their business and,
- Firms that may have had appropriate policies and procedures in place but the effectiveness of those policies and procedures were reduced when firms did not apply them consistently.

### **V. CEFLI Activities.**

#### **A. CEFLI Advertising Review Networking Forum.**

CEFLI's quarterly meeting of the Advertising Review Networking Forum took place on Tuesday, July 25, 2023. Forum members discussed current compliance challenges related to advertising review. The final 2023 Forum meeting will take place on October 24, 2023. Individuals interested in joining the Forum may contact Nancy Perez at [NancyPerez@CEFLI.org](mailto:NancyPerez@CEFLI.org).

#### **B. Webinar – Recent DOJ Compliance Developments.**

CEFLI conducted a Joint Educational Webinar with CEFLI Affiliate Member **Faegre Drinker** on the subject of recent Department of Justice (DOJ) Compliance Developments. A link to the presentation materials and the recorded session can be found on [this page](#) of CEFLI.org.

**C. September Educational Webinar – CEFLI’s 2023 Compliance & Ethics Benchmarking Survey**

In lieu of conducting a live webinar in September, CEFLI will send Members a communication with a link to an on-demand presentation summarizing key findings from CEFLI’s 2023 Compliance & Ethics Benchmarking Survey. The live webinar series will return in October.

**D. 2023 CEFLI Annual Conference.**

CEFLI’s [discounted hotel room](#) rate for the 2023 Annual Conference will expire on **August 21, 2023**. We hope you can join us for CEFLI’s Annual Conference at The JW Marriott in Washington, DC September 10-13, 2023. A link to the robust [agenda](#) (with featured speakers) and the event [registration](#) are included here. We hope you can join us for CEFLI’s premier event of the year!

**E. CEFLI Advanced Compliance Forum.**

Please save the date! CEFLI’s *new* Advanced Compliance Forum is an educational and networking opportunity for experienced compliance professionals. The workshop-style event will take place November 12-14 at the Renaissance Chicago Hotel. More information about the Advanced Compliance Forum can be found [here](#). Registration will open in the upcoming weeks.

**VI. Next Meeting.**

Registration is required to attend CEFLI’s Compliance & Ethics Committee meetings. You may register at *any time* prior to (or during) a scheduled meeting. The registration process automatically adds the meeting (and meeting access information) to your calendar. The next meeting of the CEFLI Compliance & Ethics Committee will take place on: Thursday, September 21, 2023 at 2:00 PM ET/1:00 PM CT/12:00 PM MT/11:00 AM PT.

Please register using this link [September Meeting Registration](#)

The remaining 2023 Compliance & Ethics Committee meetings are listed below. All meetings are one hour in duration and take place at 2:00 PM ET/ 1:00 PM CT/ 12:00 PM MT/ 11:00 AM PT.

- Thursday, October 12, 2023 [October Meeting Registration](#)
- Wednesday, November 15, 2023 [November Meeting Registration](#)
- Wednesday, December 13, 2023 [December Meeting Registration](#)

CEFLI encourages you to turn on your camera when joining the meeting (optional) to promote a sense of community and to allow Committee members to connect a face with a name. To enhance the fidelity of the meeting, individuals should

remain muted unless speaking.

**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  
Thursday, July 13, 2023**

A meeting of the CEFLI Compliance & Ethics Committee (the “Committee”) was held via Webex on Thursday, July 13, 2023, at 2 PM ET/ 1 PM CT/ 12 Noon MT/ 11 AM PT.

**I. Welcome and Introduction.**

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

**II. Approval of Minutes – June 15, 2023 Meeting.**

On motion, duly made and seconded and unanimously carried, the Committee: RESOLVED, that the Minutes of the June 15, 2023 meeting were approved.

**III. Issues for Review.**

**The Committee**

**A. Compliance with Digital Content Accessibility.**

The **Americans with Disabilities Act** (ADA) requires electronic information and technology, including websites, to be accessible to individuals with disabilities. The requirement applies to all states and local governments (Title II), to businesses that are open to the public (Title III) and to employers with 15 or more working employees.

The **Web Content Accessibility Guidelines** (WCAG) provide a set of guidelines to that help achieve web accessibility.

The Committee was asked to discuss their company’s approach to progressing and raising awareness of the requirements and solutions utilized to promote ADA compliance and to offer insight regarding financial services litigation trends.

Members of the Committee discussed their approaches and solutions to promote ADA compliance with digital content. Two vendors, [Accessible360](#) (used to analyze websites for compliance) and [accessiBe](#) (a tool that helps disabled consumers access digital content), were referenced.

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July 13, 2023

It was noted that California Assembly Bill [AB-1757](#) would specify the conditions needed to seek statutory damages and it would define the Web Content Accessibility Guidelines (WCAG) to be the “Internet website-related accessibility standard.”

One Committee member noted the importance of ensuring that PDFs posted to company websites have been ‘cured’ since vendor solutions typically do not result in ADA compliant PDFs.

Committee members indicated a specific plaintiff has been associated with most of the current litigation. That plaintiff is now focusing on PDF accessibility issues. The burdensome litigation efforts have resulted in many settlements.

It was suggested that Committee members may benefit from regular testing of their digital content to assess compliance levels and it was noted that ADA compliance is a perpetual process impacting many areas of an organization. Some Committee members indicated their companies prioritize their work by first focusing on public facing websites and applications, then focusing on business-to-business platforms, then focusing on employee facing systems.

The following resources were shared with CEFLI following the Committee meeting:

- Disability:IN <https://disabilityin.org/>
- Deque Systems, Inc. <https://www.deque.com/>
- Level Access <https://www.levelaccess.com/>
- Mphasis <https://www.mphasis.com/home.html>
- Interpreters and Translators, Inc. [www.ititranslates.com](http://www.ititranslates.com)

The following tools were shared with CEFLI subsequent to the Committee meeting:

- Deque axe DevTools (web)  
<https://chrome.google.com/webstore/detail/axe-devtools-web-accessib/lhdoppojpmngadmndnejejpokejbdd>
- PAC 2021 (pdf) <https://pdfua.foundation/en/pdf-accessibility-checker-pac/>
- MadeToTag (pdf) <https://pdfa.org/?s=madetotag>
- Apple Tool (video 1):  
[https://urldefense.com/v3/https://youtu.be/8sX9IEHWRJ8;!!NT3rrZz\\_VG2e!Ki2QpilUdp8hk8PNfLhOfHnXUQ9CEYiBo\\_u2ElbTRjOTSslt0uOQ5c0phuHQRT2eOI9bZoMG9Rq\\_ZvfD0V5W2yiNnGhWmWcF0oWJDk1U32DGYQ\\$](https://urldefense.com/v3/https://youtu.be/8sX9IEHWRJ8;!!NT3rrZz_VG2e!Ki2QpilUdp8hk8PNfLhOfHnXUQ9CEYiBo_u2ElbTRjOTSslt0uOQ5c0phuHQRT2eOI9bZoMG9Rq_ZvfD0V5W2yiNnGhWmWcF0oWJDk1U32DGYQ$)
- NVDA Screen Reader  
<https://www.nvaccess.org/download/>

**B. Suspicious Emails and Possible Malware.**

Life insurance companies receive a high volume of incoming emails from their customers. In some cases, these emails may contain malware or may be otherwise suspicious. In an effort to protect the company's electronic environment, companies will often choose to block emails coming from apparently compromised accounts.

Committee members were asked to discuss their company's practices with respect to receiving suspicious emails that may contain possible malware from customers and how they handle these situations while still allowing the customer to contact the company to promote a positive "customer experience."

Members of the Committee indicated suspicious emails are generally analyzed before they are blocked from company systems. The same processes are utilized for suspicious phone numbers and for bank information deemed likely to be fraudulent.

A Committee member referenced the existence of vendor solutions that facilitate the sharing of identified fraud profiles for broader education and awareness across the industry.

**C. COVID-19 State-Specific Restrictions.**

During the COVID-19 pandemic, many states issued various Bulletins which outlined specific requirements to be employed to alleviate the burdens of the COVID-19 environment. These measures included, but were not limited to, extensions of grace periods to pay premiums and extensions of time for policy lapses.

Given that the COVID-19 emergency has been declared over at the federal level, the Committee was asked to discuss their company's practices with respect to continuing to comply with COVID-19-related Bulletins.

Members of the Committee indicated they are not aware of any insurance-related Bulletins or Directives that remain in effect. One Committee member indicated their company works with consumers who contact the company to request consideration for a COVID-related hardship.

**D. AML Reviews - Adverse Media and Negative News.**

Companies periodically review their anti-money-laundering (AML) policies and procedures with respect to conducting AML reviews of current and prospective policyholders.

There are many ways in which companies can conduct AML reviews. In some cases, these reviews may include an analysis of various databases such as:

- OFAC Specially Designated Nationals (SDN);
- Domestic Politically Exposed Persons (PEP); and
- FinCEN 314(a).

Many AML review platforms provide an ability to screen policyholders against any adverse media (e.g., financial crimes, narcotics, violence, etc.) or other negative news.

Committee members were asked to discuss their company's practices with respect to including screening for possible adverse media or other negative news as part of their AML review processes.

One member of the Committee indicated their company monitors for adverse media pertaining to their life insurance or commercial mortgage loan business and they noted the company also annually conducts individual checks for negative news.

Another Committee member noted their company is building out a similar program with enhanced due diligence and risk ranking of clients within the company's books and records.

A third Committee member indicated their negative news monitoring is limited to higher risk individuals.

#### **E. Quality Assurance - Business Functions.**

Life insurance companies routinely conduct Quality Assurance of their business functions to assure they are operating as intended.

The Committee was asked to discuss their company's practices with respect to conducting Quality Assurance testing of business functions.

A member of the Committee indicated their company conducts Quality Assurance testing within its business functions in addition to conducting separate compliance testing and audit activities.

Another Committee member indicated they utilize a Compliance Testing Group (CTG), noting the focus of the team includes recent FINRA and SEC fines in the industry, past examination findings, "quick hit" surveillance testing and the review of new policies and procedures implemented by business areas.

Other Committee members referenced the use of model audit and Enterprise Risk Management teams that coordinate efforts to eliminate testing fatigue across the organization.

## **F. Automated Suitability Reviews.**

Increasingly, many companies rely upon automated systems to conduct suitability reviews. These systems often will result in a suitability “score” that can be analyzed to determine whether the result is consistent with company policies and procedures.

Several questions been presented concerning the use of automated suitability reviews by companies.

Committee members were asked to discuss whether their companies have implemented automated suitability review processes for determining whether transactions comply with company policies and procedures.

Several Committee members noted the use of a home grown, rules-based suitability system. In most cases, replacement business is not subject to automated reviews; replacement cases are handled separately.

IT was noted that automated suitability review systems rely on data collected via a company’s order entry systems, electronic applications or via company suitability forms.

One Committee member indicated their company’s review thresholds are analyzed on a quarterly basis to determine whether any guidelines need to be updated. Another member indicated their company reviews producer books of business to validate its suitability rules are not “gamed” by producers.

## **G. Life Insurance Grace Period Notices - California.**

California has specific requirements regarding mailing life insurance grace period notices to the policy owner, designee, a known assignee or another person having an interest in the life insurance policy (e.g., [California Insurance Code §10113.71\(b\)\(1\)](#)).

Accordingly, questions were presented concerning company practices regarding the delivery of life insurance grace period notices in the State of California and Committee members were asked to discuss company practices with respect to the mailing life insurance grace period notices in the State of California.

The responses from Committee members included the mailing of grace period notices to the policyowner and to any collateral assignee. In some cases, companies may also notify the assigned producer of a pending lapse.



#### **H. Verification of Minors and Disabled Adults.**

Life insurance companies may issue pre-need or final expense policies to a minor or disabled adult with a Guardian. In these instances, verification of the policyholder may present unique issues.

Committee members were asked to discuss company practices with respect to verifying the identity of minors and disabled adults for purposes of issuing pre-need or final expense policies.

Committee members indicated their companies require a Guardian to be named and on file. In some cases, the bank account of the minor may be verified. Committee members also noted their companies would not issue a contract to a minor.

#### **I. Assignment Forms.**

The Interstate Insurance Product Regulation Compact (the “COMPACT” or “IIPRC”) does not maintain guidelines with respect to what information needs to be contained within an assignment form. Moreover, there is no requirement that assignment forms be filed with the Compact.

Committee members was asked to discuss company policies and procedures related to the use of assignment forms.

A Committee member indicated their company’s assignment forms vary by product type but not by state.

#### **J. Tax Advice for Annuity Products.**

Products issued by life insurance companies have potential tax implications for the company and consumers. Specifically, annuity products serve as an example of a life insurance company product that has unique tax requirements.

Committee members were asked to discuss their experience with seeking outside counsel or advice from a tax accounting firm with respect to tax issues related to annuities.

A few Committee members confirmed their companies generally rely on the use of outside counsel to obtain advice regarding tax issues pertaining to annuity products.

#### **K. Suicide Clause Revised in Minnesota.**

The Minnesota Department of Commerce recently revised its requirements in Minnesota Statute section 61A.031 pertaining to suicide exclusions. Effective

January 1, 2024 this provision now states: *“A life insurance policy or certificate issued or delivered in this state may exclude or restrict liability for any death benefit in the event the insured dies as a result of suicide within one year from the date of the issue of the policy or certificate.”*

The Committee was asked to share their thoughts regarding what, if any, impact the change in Minnesota has with regard to contracts filed with the IIPRC given the fact the Compact has a two-year suicide exclusion standard.

A Member of the Committee referenced, and subsequently provided, a copy of the Interstate Insurance Product Regulation Commission (COMPACT) Filing Information [Notice 2023 – 1](#) concerning COMPACT filings.

The Notice states: *“On December 15, 2022, the Interstate Insurance Product Regulation Commission (“Commission”) adopted certain amendments to individual and group life insurance Uniform Standards pertaining to the length of the maximum suicide exclusion period. The amendments maintain a maximum suicide exclusion period of up to two years and include an exception requiring a shorter maximum suicide exclusion period where required by state law.”*

The Notice goes on to state: *“In adopting these Uniform Standards amendments, the Commission set an effective date of April 3, 2023, for new product filing submissions. In recognition of the complexity involved in updating previously approved products to demonstrate compliance with the amendments for new issues, the Commission set an effective date of October 3, 2023, for new issues of previously approved Compact products. As of October 3, new issues of all Compact approved products in the current Compacting States must comply with the amendments.”*

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

##### **A. NAIC Activities - State Adoptions - Revised NAIC Suitability in Annuity Transactions Model Regulation.**

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 39 state adoptions of the revised Model Regulation: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

CEFLI is aware of 6 states with best interest proposals: California, Louisiana, Nevada, Oklahoma, Utah and Vermont.

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 indicated the state of Oklahoma has adopted the Model Regulation with a September 1<sup>st</sup> effective date. It was also noted that the state of Indiana has proposed adoption of the Model Regulation. Further, the Louisiana legislative branch recently provided authority for the Louisiana Department of Insurance to promulgate a rule for purposes of adopting the NAIC Model Regulation.

Another Committee member shared that the Kansas Department of Insurance has proposed the repeal of K.A.R. 40-2-14A which would nullify the current recommendation standards for annuities, following the state's adoption of the NAIC Suitability in Annuity Transactions Model Regulation.

A few Committee members indicated they received letters from the Iowa Insurance Division pertaining to company supervisory systems.

#### **A. FINRA Announces New Examination Strategies.**

In recent public statements and podcasts, FINRA executives have indicated that FINRA will be increasing the number of onsite exams it conducts but the amount of time that examiners may spend at a firm may be reduced.

FINRA's Risk Monitoring program determines "whether firms will receive an exam every year, whether they will receive an exam in back-to-back years or whether they'll be more spread out based on the risk of the firm."

Moreover, FINRA also indicated that "off channel communications" will be an area of increased focus.

#### **B. DOL Announces New Fiduciary Rule - Possible Release in August.**

The US Department of Labor (DOL) released its [regulatory flexibility agenda](#) that indicates a new fiduciary rule will possibly be released in August.

The proposed rule would amend the regulatory definition of the term "fiduciary" to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries.

**C. US District Court Vacates Portions of the DOL Prohibited Transaction Exemption (PTE) 2020-02 - Improving Investment Advice for Workers & Retirees.**

On June 30, the US District Court for the Northern District of Texas issued a [ruling](#) vacating portions of the DOL's PTE 2020-02.

The order vacates certain portions of the PTE 2020-02 text and preamble that allow consideration of ERISA Title II investment advice relationships when determining ERISA Title I fiduciary status.

These include:

- *Allowance of review that a single rollover "can be the beginning of an ongoing relationship" to Title II plans;*
- *Inclusion of potential "future, ongoing relationships" to Title II Plans; and*
- *Conclusion that "an ongoing advisory relationship spanning both the Title I Plan and the IRA satisfies the regular basis prong."*

The Court determined that these provisions exceeded the DOL's authority under ERISA and constitute arbitrary and capricious interpretations of the DOL's five-part test to determine whether financial professionals are acting as "investment advice fiduciaries."

**V. CEFLI Activities.**

**A. CEFLI Advertising Review Networking Forum**

CEFLI's next quarterly meeting of the Advertising Review Networking Forum will take place on Tuesday, July 25, 2023, from 2:00 – 3:30 PM ET. Forum members will discuss current compliance challenges related to advertising review. Individuals interested in joining the Forum may contact Nancy Perez at [NancyPerez@CEFLI.org](mailto:NancyPerez@CEFLI.org).

**B. Webinar – Recent DOJ Compliance Developments.**

CEFLI's next Joint Educational Webinar will take place with CEFLI Affiliate Member **Faegre Drinker** on August 9th at 1:00 PM ET/ 12:00 PM CT/ 11:00 AM MT/ 10:00 AM PT. The webinar will address recent Department of Justice (DOJ) Compliance Developments. Registration will open in two weeks, on August 26th.

**C. Webinar – Artificial Intelligence.**

Yesterday, CEFLI conducted a Joint Educational Webinar with CEFLI Affiliate Member **Locke Lord**. The webinar addressed the advantages and challenges related to the use of AI in life insurance, it outlined regulatory approaches including

NAIC and state activity and it addressed corporate governance and risk mitigation strategies. A link to the presentation materials and the recorded session can be found on [this page](#) of CEFLI.org within the next day. Please use your CEFLI logon and password to access the content.

**D. 2023 CEFLI Annual Conference.**

Registration for CEFLI's 2023 Annual Conference at The JW Marriott in Washington, DC September 10-13, 2023 is now open. Links to [the agenda](#) and event [registration](#) are included here. CEFLI's discounted hotel room rate is \$329 per night and the rate is available until the CEFLI block sells out or until August 21, 2023. We encourage attendees to make their [reservations](#) as soon as possible. We hope you can join us for CEFLI's premier event of the year!

**E. CEFLI Advanced Compliance Forum.**

Please save the date! CEFLI's *new* Advanced Compliance Forum is an educational and networking opportunity for experienced compliance professionals. The workshop-style event will take place November 12-14 at the Renaissance Chicago Hotel. More information about the Advanced Compliance Forum can be found [here](#). Registration will open in August.

**F. CEFLI Job Board for Compliance & Ethics Positions in the Industry**

CEFLI seeks to remind Members of the opportunity to have vacant Compliance & Ethics positions posted to the job board of CEFLI.org. Postings remain on the site for 60 days. A link to the job board and information on how to have a position posted is included [here](#).

**VI. Next Meeting.**

Registration is required to attend CEFLI's Compliance & Ethics Committee meetings. You may register at any time prior to (or during) a scheduled meeting. The registration process automatically adds the meeting (and meeting access information) to your calendar. The next meeting of the CEFLI Compliance & Ethics Committee will take place on: Thursday, August 10, 2023 at 2:00 PM ET/ 1:00 PM CT/12:00 PM MT/ 11:00 AM PT.

Please register using this link:

<https://cefli.webex.com/weblink/register/rd62f1042551e5697134dad9ecab2af58>

The remaining 2023 Compliance & Ethics Committee meetings are listed below. All meetings are one hour in duration and take place at 2:00 PM ET/ 1:00 PM CT/ 12:00 PM MT/ 11:00 AM PT.

- Thursday, September 21, 2023  
<https://cefli.webex.com/weblink/register/r6a0f957f8266e717f29bf210ebca03fb>

Minutes – CEFLI Compliance & Ethics Committee Meeting  
July 13, 2023

- Thursday, October 12, 2023  
<https://cefli.webex.com/weblink/register/r56333622bc615d167f5430cc3c890458>
- Wednesday, November 15, 2023  
<https://cefli.webex.com/weblink/register/r41a8566fc2309182d1bdd6d4246f9404>
- Wednesday, December 13, 2023  
<https://cefli.webex.com/weblink/register/r2996a4ddaf72e77ca4e8b1ad2a26335f>

CEFLI encourages you to turn on your camera when joining the meeting (optional) to promote a sense of community and to allow Committee members to connect a face with a name. To enhance the fidelity of the meeting, individuals should remain muted unless speaking.

**VII. Other Business.**

There being no further business, the meeting was adjourned.