Agenda

CEFLI Compliance & Ethics Committee Meeting
Wednesday, November 15, 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/r41a8566fc2309182d1bdd6d4246f9404

I. Welcome and Introduction. — **Donald J. Walters**

A. Antitrust Statement.

II. Approval of Minutes – October 12, 2023 Meeting. — **The Committee**

III. Issues for Review. — **The Committee**

A. Strategies to Comply with Artificial Intelligence Regulations and Guidance.

Over the past several months, we have observed a lot of activity with respect to artificial intelligence (AI) regulations and guidance. In addition to the Colorado AI Regulation and its accompanying testing proposal, a second draft of the NAIC Bulletin on AI, the National Institute of Standards and Technology (NIST) AI Risk Management Framework, President Biden's Executive Order to build US capacity to evaluate and mitigate the risks of AI, and EU AI Act, AI has gained a prominent role in the minds of politicians and regulatory authorities.

In light of these developments, we wanted to revisit the broader issue of artificial intelligence and the steps companies have taken thus far to comply with the Colorado AI Regulation and other evolving AI regulatory requirements.

The Committee will be asked to discuss the steps their companies have taken thus far to comply with the Colorado AI Regulation and other evolving AI regulatory requirements.

B. Suitability Review of Additional Deposits into Existing Annuities.

The NAIC Suitability in Annuity Transactions Model Regulation requires companies to conduct a review of new annuity transactions. However, given the increasing flexibility of many products offered by life insurance companies, consumers often have the option of making additional contributions to their annuity products after their initial purchase.

Accordingly, a question has been presented to determine the extent to which companies may be conducting suitability reviews of additional contributions to their annuity products.

Specifically:

- *Does your company conduct suitability reviews on all additional deposits into in existing annuities?*
- *Does your company conduct suitability reviews on additional deposits into existing annuities that involve a replacement?*
- *Does your company require a new suitability form to be completed for additional deposits into existing annuities?*

The Committee will be asked to discuss their company's practices with respect to conducting suitability reviews of additional deposits into existing annuity contracts.

C. Data Points in Life Insurance Underwriting Practices - Credit Scores.

Life insurance companies rely upon a wide range of information in order to underwrite life insurance policies for consumers. Information found on the application for the life insurance policy along with other data collected by insurers will form the basis for a judgment as to whether to underwrite an applicant for a life insurance policy.

A question has been presented concerning certain data points that may be used by life insurance companies in their underwriting practices.

Accordingly, a question has been presented concerning the extent to which life insurance companies are using credit scores as part of their underwriting practices in all states including California.

The Committee will be asked to discuss their company's practices with respect to using credit scores as part of their overall underwriting evaluation of an applicant for a life insurance policy.

D. Annual Review of Independent Agents.

Life insurance companies are generally responsible for the acts of their agents. This paradigm becomes more challenging when a life insurance company distributes its products through independent agents.

To address these challenges, many life insurance companies conduct periodic reviews of their independent agents and the manner in which they conduct their business.

As some companies consider implementing such independent agent review programs, they are considering sending a questionnaire to a sample of independent agents on an annual basis as a means to conduct a “risk rating” of their practices.

With this in mind, a question has been presented to determine measures life insurance companies may undertake to conduct periodic reviews of their independent agents.

The Committee will be asked to discuss their company’s practices with respect to periodic reviews of their independent agents who distribute their company’s products.

E. Company Logo Changes.

From time to time, companies may choose to change their logo to provide a fresh, new “look and feel” to the company’s marketing efforts.

However, given the number of instances in which a company may use its logo (e.g., website, policy forms, letterhead, email communications, etc.) it may present a significant undertaking to identify all the instances in which a company’s logo may need to change its logo on current usages to represent the company.

Therefore, a question has been presented to determine whether any other companies have undergone a logo change in the past five years and, if so, whether they may be able to identify any resources or guidance on items to consider for purposes of the change (i.e., lists of relevant regulations, filing considerations, timelines, etc.).

The Committee will be asked to discuss whether their company has undergone a company logo change within the past five years and, if so,

whether they may have any resources or guidance on how to complete this process in an efficient and compliant manner.

F. Possible Sharing of Compensation with Unlicensed Persons.

It has been reported that, in some cases, life insurance companies may share compensation for individual product transactions in the form of “referral fees” or “marketing fees” to unlicensed persons if that person is not selling, soliciting or negotiating insurance or receiving a rebate or other inducement in violation of state laws or regulations.

For example, the NAIC State Producer Licensing Handbook identifies an example where you trade association may be eligible to receive a fee for each member of the Association who purchases insurance as part of an affinity marketing program even though the Association is not required to be licensed.

Accordingly, interest has been expressed in determining whether other companies may have policies and procedures that allow their life insurance company to share compensation with unlicensed persons under certain circumstances.

The Committee will be asked to discuss whether their companies maintain policies and procedures that permit sharing of conversation with unlicensed persons under certain circumstances.

G. List of States that Prohibit Cross-Border Sales.

In prior Committee meetings, we have discussed the issue of cross-border sales. State laws and regulations vary with respect to whether these types of sales are permitted and, if so, under what circumstances.

A follow-up question has been presented to confirm the list of states that may prohibit cross-border sales.

Previously, the states of Massachusetts, Minnesota, Utah and Washington were identified as states that prohibit cross-border sales.

However, a question has been presented in an attempt to confirm whether that list of states is complete.

The Committee will be asked to identify those states that prohibit cross-border sales in their laws and regulations.

H. Delivery of Policies/Contracts Using the United States Postal Service (USPS) First Class Mail.

Life insurance companies use a variety of practices to deliver life insurance policies and annuity contracts to consumers. Many companies utilize USPS First Class mail for this purpose.

Accordingly, several questions have been presented for those companies that may use USPS First Class mail to deliver policies and contracts. They are:

- *What additional process/measures does your company have in place for securing a policy delivery receipt for several states that require one?*
- *What policies and procedures does your company follow to determine the commencement of the "free look" in states that do not require a policy delivery receipt?*

- *Alternatively, if your company does not use USPS First Class mail to deliver policies/contracts, what is the rationale for not doing so?*

The Committee will be asked to discuss their company's practices with respect to using USPS First Class mail to deliver policies/contracts in states that may require a policy delivery receipt. In addition, for USPS First Class delivery of policies/contracts in states that do not require a policy delivery receipt, how does your company determine the commencement of the "free look" period? And, if your company has elected not to use USPS First Class mail, why not?

I. Signature Requirements in Community Property States.

Consumers of life insurance company products are provided with the opportunity to change various elements of their policies or contracts including changing the owner as well as beneficiaries. Moreover, consumers also have the option to take withdrawals or request a full surrender from certain types of life insurance company products.

There are 9 community property states (Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, Washington and Wisconsin in the United States.

In light of the above, a question has been presented concerning whether life insurance companies obtain either the signature of the owner's spouse or require some other affirmative confirmation (e.g., check a box that the owner is not married before processing a request) in order to allow the requested transaction to be in "good order" when requested from a consumer in a community property state.

The Committee will be asked to discuss their company's policies and procedures related to requiring signatures for customer service transactions in community property states.

J. Monitoring State Employment Law Changes.

Employment law represents a continually changing field of legal practice. As life insurance companies begin to employ individuals who may work remotely and may reside in multiple jurisdictions, companies are challenged with respect to monitoring rapidly changing state (and sometimes local) employment laws.

Therefore, a question has been presented to determine what types of resources (e.g., third-party legislative/regulatory services) life insurance companies have found to be helpful to track these changes to applicable employment laws on a timely basis.

The Committee will be asked to discuss any resources your company may use to keep track of changes to state employment laws.

K. Artificial Intelligence Policies / Cybersecurity Requirements - Producers.

One of the key challenges facing our industry and our society is the rapid evolution of artificial intelligence. Artificial intelligence may rely upon aggregated data related to many individuals to produce its analyses.

In light of growing concerns about protecting the privacy of personal information, a question has been presented concerning whether your company's artificial intelligence-related policies and procedures include provisions applicable to producers and, specifically, independent producers.

Moreover, in light of the fact that companies and regulators are concerned about maintaining appropriate cybersecurity controls in the insurance industry, another question has been presented concerning whether your company requires specific cybersecurity measures to be in place for producers, specifically independent producers?

The Committee will be asked to discuss whether they include producers (and, specifically, independent producers) in their company's artificial intelligence-related policies and procedures and also whether they require specific cybersecurity measures to be in place for producers (including independent producers).

L. "Consent to Do Business Electronically" Forms.

More and more life insurance companies are conducting their business electronically. To do so, they must comply with various applicable laws and regulations including the federal E-Sign Act.

As companies consider entering the electronic marketplace, they are interested in determining the types of forms that companies have developed to allow consumers to "Consent to Do Business Electronically."

Also, in developing such forms, what requirements should a life insurance company consider when creating a form and making it available to consumers in order to comply with the E-Sign Act or other applicable state laws.

The Committee will be asked to discuss whether their companies conduct business electronically and, if so, whether they may be willing to share their "Consent to Do Business Electronically" forms and any guidance they may be able to share with other companies when considering developing these forms.

M. Record Retention – Recorded Calls.

Section 6 (A)(2) of the NAIC Market Conduct Record Retention and Production Model Regulation Model Regulation requires that claim files and accompanying records shall be maintained for life and annuity transactions for the calendar year in which the claim is filed plus 3 years. There are also various state laws and regulations that pertain to maintaining certain records including electronic records.

Many companies record discussions concerning claims activities. In many instances, the content of these recordings may be documented within the claim file, but questions arise with respect to whether companies may be required to maintain a copy of the recordings under Section 6 (A)(2) of the Model Regulation.

Several questions have been presented concerning these issues:

- *Does your company retain recordings related to claims activities, even if the content of the recordings is captured within the claim file?*
- *If the content of the recording is not captured within the claim file, do you retain the recording as a supplement to the claim file?*
- *Do you consider telephone recordings to be electronic records and, therefore, subject to electronic record retention requirements?*

The Committee will be asked to discuss their company's record retention practices with respect to maintaining recordings of phone calls that pertain to life and annuity claims practices.

N. Record Retention – Suitability.

Section 9 (A) of the NAIC Suitability in Annuity Transactions Model Regulation requires insurers, general agents, independent agencies and producers to maintain or make available certain records associated with annuity transactions. These record retention requirements have differing time frames in various states that have adopted the Model Regulation ranging from 3 years to 10 years.

In order to determine the start of the retention period:

- *What does your company consider "the completion of the insurance transaction?"*
- *Is this when the annuity contract become "effective" or "settled?"*

The Committee will be asked to discuss their company's practices concerning when they identify "the completion of the insurance transaction" to mark the start of the retention period for annuity transactions.

O. Online Insurance Transaction Sessions – Timed Out.

More and more life insurance companies are providing opportunities for consumers to purchase life and annuity products online. However, a practical issue also arises with respect to when does your system consider an online session to be "timed out" and closed to protect the integrity of online systems.

The Committee will be asked to discuss when their companies may consider an online inquiry or transaction to be "timed out" for purposes of protecting the integrity of the company's online systems.

P. Trust-Owned Annuities.

In some instances, a life insurance company product may be owned by a trust rather than an individual. When a trust applies for ownership of a fixed annuity:

- *Does your company require a trust certification form with every application? If not, when do you require a trust certification form?*
- *Do you require a copy of the trust agreement with every application? If not, when do you require a trust agreement?*

- *When you do require a copy of the trust agreement, do you review the full trust agreement with every application? Or do you rely upon the trust certification form?*

The Committee will be asked to discuss their company's practices with respect to processing annuity transactions in which a trust may apply to be the owner of the contract.

Q. Verifying Customer Identity - Service Forms on Company Websites.

Life insurance companies may post service forms on their websites for policyholders and annuity owners to access (e.g., RMD form, Trust Verification form, ACH form, etc.). These types of documents are generally available without having to access a customer-specific portal. Often a party can download, complete, print and provide a "wet" signature to the form.

- *When you receive one of these completed and signed forms via mail, email or fax, what is your process to verify that the party who completed the form (policyholder, annuity owner, etc.) is authorized to do so before processing the request?*

The Committee will be asked to discuss their company's practices with respect to verifying the identity of individuals who sign publicly available service forms.

R. Agent DocuSign Accounts.

Some life insurance companies have an online application available through their agent portal that permits independent agents to type the application and then either print the application for the applicant's "wet" signature or to send the completed application to the applicant via DocuSign for signature.

If the application is sent to the applicant via DocuSign, the applicant is required to consent to electronic transactions via a standard authorization prepared by the life insurance company before signing electronically through the insurance agent's DocuSign account.

These practices raise some additional issues:

- *Does your company permit an independent agent to use their own DocuSign account rather than use the life insurance company's DocuSign account that is set-up for the agent's use?*

- *If so, do you require the independent agent to only use a certain level of DocuSign account and are they required to upload the life insurance company's standard authorization to electronic transactions?*

The Committee will be asked to discuss their company's practices with respect to allowing independent agents to use their own DocuSign accounts for allowing customers to complete life insurance company forms electronically.

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 7 states with best interest proposals: California, Indiana, Louisiana, Nevada, New Hampshire, Utah and Vermont.

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. The DOL Announces New Fiduciary Rule.

The US Department of Labor (DOL) recently announced issuance of a new proposed Fiduciary Rule. The Employee Benefits Security Administration has published a helpful fact sheet on the proposal.

The new proposal has generated concern across the life insurance industry and will be a source of focus for industry comments and debate over the months ahead.

Please plan to join us for a webinar on the new DOL Fiduciary Rule proposal on Wednesday, January 31, 2024 at 1 PM EST/12 PM CST which will be provided by Fred Reish, partner with CEFLI Affiliate Member law firm, Faegre Drinker who will explore the impact of this proposed rule on life insurance company operations.

Registration for the webinar will be opened two weeks prior to the event.

C. SEC Releases 2024 Examination Priorities Report.

The SEC recently released their 2024 Examination Priorities Report which continues to focus on examinations of investment advisers and broker-dealers to determine compliance with Regulation Best Interest and Form CRS issues.

The SEC also will continue to review firms' practices with respect to cybersecurity controls, artificial intelligence use and AML issues as part of their examination focus.

D. Delaware Virtual Audits - TPAs.

The Delaware Insurance Department recently published its final order for adoption of amendments to its Third Party Administrators (TPAs) to allow insurers to have the option to conduct these audits virtually rather than on site and in-person.

E. New York – Amendments to Cybersecurity Regulation.

New York recently adopted a second amendment to its Cybersecurity Regulation to establish new cybersecurity requirements for financial services companies.

V. CEFLI Activities.

A. CEFLI Joint Education Webinar: The Legal and Ethical Implications of Insurers' Use of ChatGPT and Other AI in Connection with Policy Administration.

CEFLI recently conducted a Joint Educational webinar featuring CEFLI Affiliate Member MaynardNexsen on the legal and ethical implications of insurers' use of ChatGPT and other AI in connection with policy administration. The presentation materials and the recorded webinar are linked here. Please use your CEFLI logon and password to access the content.

B. CEFLI Joint Education Webinar: The New Colorado AI Governance Regulation.

CEFLI recently conducted a Joint Educational webinar featuring CEFLI Affiliate Member Deloitte that addressed the requirements of insurers related to Colorado's new regulation on artificial intelligence governance. The presentation materials and the recorded webinar are linked here. Please use your CEFLI logon and password to access the content.

C. CEFLI December Joint Education Webinar:

CEFLI December Joint Educational Webinar on Market Conduct Insights will take place on Wednesday, December 6th at 1:00 PM ET/ Noon CT/ 11:00 AM MT/ 10:00 AM PT. The Joint Educational webinar will feature Kathy Donovan of CEFLI Affiliate Member Wolters Kluwer. Registration for the webinar will open two weeks prior to the event. We hope you can join us!

D. CEFLI Advanced Compliance Forum

CEFLI conducted its first Advanced Compliance Forum earlier this week on at the Renaissance Chicago Hotel. The sold out event featured half-day sessions covering each of the following topics: Compliance Oversight Programs; Advertising & Social Media; Market Conduct – Examination Management & Trends; Suitability; Best Interest & Replacements; and Fraud; AML & Vulnerable Adult Programs. Copies of the presentation materials will be added to this page of CEFLI.org in the upcoming days.

VI. Next Meeting.

The next meeting of the CEFLI Compliance & Ethics Committee will take place on: Thursday, December 14, 2023 at 2:00 PM ET/1:00 PM CT/12:00 PM MT/11:00 AM PT.

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.

Please register using this link: 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.

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Minutes

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

I. Welcome and Introduction.

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

II. Approval of Minutes – September 21, 2023 Meeting.

On motion, duly made and seconded and unanimously carried, the Committee RESOLVED that the Minutes of the September 21, 2023 meeting were approved.

III. Issues for Review.

A. Annuity Suitability Oversight Practices.

Life insurance companies distribute their annuity products through a variety of distribution channels including broker-dealers and other third-party distributors. When annuity products are sold through broker-dealers or third-party distributors, life insurers are required to comply with the requirements of the NAIC Suitability in Annuity Transactions Model Regulation.

The Model Regulation requires life insurers to provide an annual report to management on their company's annuity suitability supervision system.

Accordingly, several questions were presented concerning the content of the report to senior management for life insurers that distribute their annuity products through broker-dealers or third-party distributors:

- *If your company distributes annuity products through broker-dealers or other third-party distributors, do you include the results of your review of each broker-dealer or third-party distributor's annuity suitability supervision process within your company's report to senior management or do you provide a general summary?*
- *Does any company interpret the Model Regulation's requirement to provide a report to senior management to not include any reference to broker-dealers or*

third-party distributors if the life insurance company maintains its own in-house suitability review process?

Committee members reported they do not include results of specific reviews in the annual report, which generally remains high-level. One Member advised that, if an issue was identified during a review, the issue would be referenced as well as how it was remediated. Another Member noted that they provide a supplemental report covering details of specific reviews.

B. Internal Replacements – Surrender Period.

During the Committee's most recent meeting, the Committee discussed company practices pertaining to internal replacements. In light of this discussion, several additional questions were posed for further review pertaining to internal replacements during a policy's surrender period. They included:

- *Do any life insurance companies allow internal replacements during the surrender period, and, if so, under what parameters?* (For example, an annuity owner may be able to take advantage of a higher interest rate during the surrender period where the replacement rate during the first year exceeds the surrender charge.)
- *If your company does not allow internal replacements during the surrender period, what is the rationale and are there exceptions?*

Committee members advised they would allow a replacement during the surrender period if the transaction was suitable. A Member reported they would waive the greater of the MVA or surrender charge.

C. Colorado's Governance and Risk Management Framework Requirements for Life Insurers' Use of External Consumer Data and Information Sources (ECDIS), Algorithms, and Predictive Models ("Colorado Artificial Intelligence Regulation").

Colorado recently issued the long-awaited final version of its Artificial Intelligence Regulation to outline the Colorado Department of Insurance's expectations with respect to the governance and risk management frameworks pertaining to insurers use of external consumer data and information sources, algorithms and predictive models. The Artificial Intelligence Regulation followed several months of public hearings and written comments submitted by regulators and industry interested parties.

Several questions were submitted for discussion concerning the Regulation.

- *How are life insurance companies interpreting the definition of "traditional underwriting factors" in the Artificial Intelligence Regulation?* (The term "traditional underwriting factors" is defined in the proposed Quantitative Testing for Unfairly Discriminatory Outcomes for Algorithms and Predictive Model Used for Life Insurance Underwriting (the "Testing Regulation") see, infra.).
- *If a life insurance company is only using external data that is generally considered to be a "traditional underwriting factor" (e.g., behavioral information related to a specific individual in the form of a criminal history of a non-juvenile felony conviction that has a direct relationship to mortality), is the life insurance company subject to the Artificial Intelligence Regulation? Or does it not apply because there is no ECDIS (i.e., the data is the traditional underwriting factor and not used to supplement or supplant the traditional underwriting factor).*

Committee members advised that these are the very questions they are currently addressing. One Member noted requirements for initial testing and application approval results, and that there is a reference to factors that could be used as controlled variables as traditional underwriting factors, but there is not enough detail.

D. Records Management Practices.

Records management is becoming a significant issue for many life insurance companies; especially, given the various media forms through which life insurance company records can be maintained.

Several questions concerning records management practices were presented including:

- *How long does your company keep premium payment records? Is it for the life of the policy plus the applicable retention period? (For example, when responding to consumer complaints, how far back do you go to conduct a premium audit?)*
- *How does your company manage records that are old or use other forms of media such as microfiche, etc.?*

Committee members reported that they maintain records for the life of the policy plus 10 years. When they encountered an issue with older records, they had those records digitized.

E. Systems to Manage Compliance Reports/Deadlines.

Laws and regulations applicable to life insurance company operations require life insurance companies to meet specific reporting obligations and deadlines. Due to the varying elements of these requirements in several states, meeting these reporting obligations and deadlines can become very complex.

A question was presented to gain insight concerning the best way to keep track of upcoming compliance reporting obligations and deadlines.

Specifically, what systems/programs does your company use to establish a Compliance Calendar?

Committee members shared several methods for keeping track of important dates. Among those shared were Smart Sheets and the SAI Global Calendar Tool, both of which track and notify. Some Members maintain manual calendars and send reminders as appropriate.

F. Tracking of New Laws and Regulations.

One of the significant challenges faced by life insurance companies is tracking new laws and regulations. Companies use a variety of different vendors and off-the-shelf solutions to address these challenges.

Some companies have developed unique internal, proprietary processes to manage the tracking of new laws and regulations applicable to their companies.

Therefore, several questions were presented concerning the way in which life insurance companies track new laws and regulations. They include:

- *Can you describe your process to track and review new laws and regulations?*
- *Do you "split up' responsibility for reviewing and distributing specific items such as laws/regulations/bulletins or are all laws/regulations/bulletins reviewed by subject matter experts or by a team of individuals who are assigned responsibility for tracking, reviewing and distributing new laws and regulations?*

Committee members utilize several methods for gathering, tracking, and analyzing new laws and regulations. Among the methods used were RegEd CODE, LogicGate, Wolters Kluwer, Connected Risk Solutions, and ACLI with tracking managed through Smart Sheets, StateScape, or SharePoint.

Some Members advised Compliance will triage new laws and regulations, forward to impacted business partners, then review resolutions together to ensure they are completed. Members also reported Compliance and Law will review new items together, if necessary, prior to assignment to business units.

G. Calculation of Free Look Period.

Life insurance company products offer a "free look" provision to allow consumers to examine the offer of a policy or contract issued by a life insurance company and whether they will accept that policy or contract as offered. This "free look" provision allows consumers to return a policy or contract to an insurer without penalty.

Several questions were presented concerning how life insurance companies calculate their free look period:

- *How does your company calculate the start of the free look period? On the date the policy was delivered to the policyholder? Or does payment of the premium establish the policy delivery date (subject to state regulatory requirements)?*
- *If the free look period starts when the policies are delivered to the policyholder and you do not require a sign policy delivery receipt in every state (subject to state regulatory requirements), how do you calculate the policy delivery date?*

Committee members reported that the date of delivery is when the free look clock starts. Some Members require delivery receipts in all cases, while others request them in all cases and require when state mandated. In instances where a delivery receipt has been requested and is not required, a negative consent letter will be sent when no response is received. A Member confirmed that they will accept a signed illustration in lieu of a delivery receipt when the delivery receipt is not state mandated. Another Member advised that they require a delivery receipt for all life policies delivered, and that for annuity contracts delivered, they will estimate the date of delivery from their mailing date.

H. Agent Licensing Issues - Out-Of-State Residents.

Given the complexity of the state-based regulation system of insurance, the Committee often reviews questions associated with agent licensing practices for sales of life insurance company products that may involve applicants who do not reside in a state in which an agent is licensed.

The following fact pattern was presented for review:

- ➢ An agent and applicant complete an application for life insurance in the agent's licensed state;
- ➢ The product has been approved in the agent's licensed state; but

- The applicant *is not a resident* of the agent's license state but is present in the agent's licensed state when completing the application.

- *Would your company permit this sale to take place?*
- *Does the answer to your question pertain to which states are involved in this transaction?*

Committee members noted that some states prohibit cross border sales. In other cases, Members reported that they require the nexus and capture the explanation (utilizing a specific form) to confirm the consumer did not cross into another state only to purchase insurance, in which case, the transaction would be prohibited.

I. Vector One – Producer Debt.

As part of the due diligence process to appoint producers, life insurance companies will rely upon various information sources to determine whether a prospective producer meets the company's qualification requirements to distribute products on behalf of the company.

One of the systems used by some life insurers for this purpose is Vector One which allows a life insurance company to inquire into a producer's debt history.

Producers for the company submitting the question indicated that Vector One is not widely used across the life insurance industry. The Committee Member submitting this issue is trying to determine the extent to which Vector One is used throughout the life insurance industry.

A Committee member advised that their company uses it for all producers contracted and will report to Vector One when a producer hits a specific debt threshold. Another Member was using Vector One and suspended use with new appointments while their procedures are updated to include required producer authorization.

J. AML/Antifraud - In-House Training.

Life insurance companies are continually providing training to their personnel with responsibility for AML/Antifraud issues. Life insurance companies will rely upon a variety of ways to complete these training activities. Some companies rely upon external vendors and attendance at industry conferences to provide their AML/Antifraud training whereas other companies have established their AML/Antifraud training as "in-house" programs.

One company is considering establishing an “in-house” AML/Antifraud training and presented several questions for comment from those that may have established “in-house” AML/Antifraud training programs. These questions include:

- *If your company has an “in-house” AML/antifraud training program, were there “free” resources you found that helped your company to develop it?*
- *If your company uses a vendor to do AML/antifraud training, what vendor does your company use and can you provide your experience with the vendor/program?*

Committee members primarily conduct training internally and had no awareness of free resources. One Member utilizes RegEd for field and internal training and is in the process of developing their own. Another Member outsources the SIU function, and part of that includes training (which was filed and approved by the company). Another Member conducts training internally and pushes out training using Articulate.

K. California Consumer Privacy Act (CCPA).

The California Consumer Privacy Act (CCPA) was enacted to enhance privacy rights and consumer protections for residents of the state of California when conducting business with companies meeting certain thresholds. Many life insurance companies were impacted by the enactment of the CCPA. As a result, many life insurance companies had to provide additional disclosures and notices to comply with the requirements of CCPA.

Several questions were presented concerning strategies companies have pursued to comply with the requirements of CCPA including:

- *When your company put into place policies and procedures to comply with the CCPA, did your company apply these policies and procedures solely to policy/contract owners or did they apply those same policies and procedures (e.g., notification/addendum’s) to beneficiaries as well?*

Committee members approach compliance with CCPA from more than one perspective. One Member only applies policies and procedures to the policy/contract owner, while other Members apply to all California residents, which includes beneficiaries.

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 7 states with best interest proposals: California, Indiana, Louisiana, Nevada, New Hampshire, Utah and Vermont.

B. Colorado Issues Proposed Testing Regulation.

After recently issuing its final version of its Artificial Intelligence Regulation (see, supra.), the Colorado Division of Insurance also released its proposed regulation Concerning Quantitative Testing of External Consumer Data and Information Sources, Algorithms, and Predictive Models Used for Life Insurance Underwriting for Unfairly Discriminatory Outcomes (the "Testing Regulation") to determine compliance with the Artificial Intelligence Regulation.

The Testing Regulation addresses the quantitative testing requirements for life insurers that use ECDIS to ensure that their use is not unfairly discriminatory based upon race and ethnicity.

C. SEC Charges 10 Firms with Recordkeeping Failures.

The SEC has charged 10 firms with failure to maintain and preserve electronic communications. The firms admitted to these violations and agreed to pay fines totaling $79 million.

In recent months, the SEC has charged several firms whose employees communicated through personal text messages or other off channel communications platforms concerning business activities related to customers without appropriate record-keeping which constitutes a violation of securities laws.

D. FINRA Extends Temporary Remote Inspection Program For Broker-Dealers until June 2024.

FINRA recently announced that it will be extending its temporary remote inspection program for broker-dealers until June 2024. This program will allow firms to inspect offices remotely rather than in-person. The extension is reportedly designed to give firms more time to prepare for the eventual return of on-site inspection programs.

V. CEFLI Activities.

A. CEFLI October Joint Education Webinar: The Legal and Ethical Implications of Insurers' Use of ChatGPT and Other AI in Connection with Policy Administration

CEFLI's October Joint Educational Webinar will take place on Wednesday, October 11 at 1:00 PM ET/ Noon CT/ 11:00 AM MT/ 10:00 AM PT. The Joint Educational webinar featuring CEFLI Affiliate Member Maynard Nexsen will address the legal and ethical implications of insurers' use of ChatGPT and other AI in connection with policy administration. Registration for the webinar is open. We hope you can join us!

B. CEFLI November Joint Education Webinar: Current Compliance Challenges Facing the Life Insurance Industry

CEFLI November Joint Educational Webinar on Current Compliance Challenges will take place on Wednesday, November 8 at 1:00 PM ET/ Noon CT/ 11:00 AM MT/ 10:00 AM PT. The Joint Educational webinar featuring CEFLI Affiliate Member Deloitte will provide insight regarding the current compliance challenges facing the life insurance industry. Registration for the webinar will open two weeks prior to the event.

C. CEFLI Advanced Compliance Forum

CEFLI's Advanced Compliance Forum is an educational and networking opportunity for experienced compliance professionals to come together for purposes of networking and discussing select core compliance functions in detail. The workshop-style event taking place on November 12-14 at the Renaissance Chicago Hotel has sold out.

D. Additional Resources Available on CEFLI.org.

CEFLI makes a number of Additional Resources available to Member Companies. For example, the National Association of Insurance Commissioners (NAIC) recently released the 36th edition of its ***Insurance Department Resources Report*** (*IDRR*). Links to the resources have been added to CEFLI's Additional Resources page. The first volume contains information by state on the number of departmental staff and their functions, annual budgets, revenue flows, the number of insurers and insurance producers, and the number of consumer complaints and inquiries. The second volume includes premium volume by type and state.

E. CEFLI Job Board for Compliance & Ethics Positions.

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: Wednesday, November 15, 2023 at 2:00 PM ET/1:00 PM CT/12:00 PM MT/11:00 AM PT.

Please register using this link: November 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.

- **RESCHEDULED:** ~~Wednesday, December 13, 2023~~ Thursday, December 14, 2023: December Meeting Registration. Committee members who previously registered for the December meeting will receive an updated calendar invitation from Webex within the next day.

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.