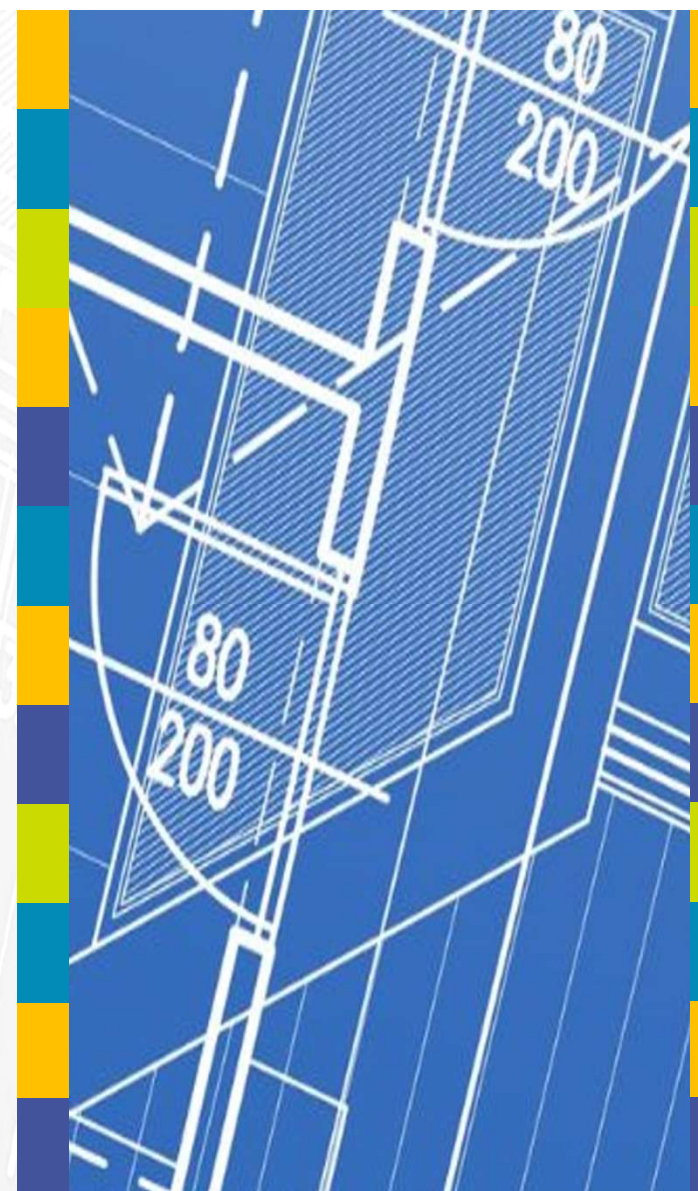




2024 CFTC THE STATE INSURANCE REGULATORY EXAMINATION PROCESS & ITS IMPACT UPON COMPLIANCE

#strongfoundation #cftc24

The Compliance & Ethics Forum for Life Insurers



FACULTY



TERESA KNOWLES

DEPUTY COMMISSIONER
NORTH CAROLINA DEPARTMENT OF
INSURANCE



STACIE PARKER

CHIEF MARKET CONDUCT
EXAMINER
TEXAS DEPARTMENT OF INSURANCE



DONALD WALTERS

PRESIDENT & CEO
CEFLI

AGENDA

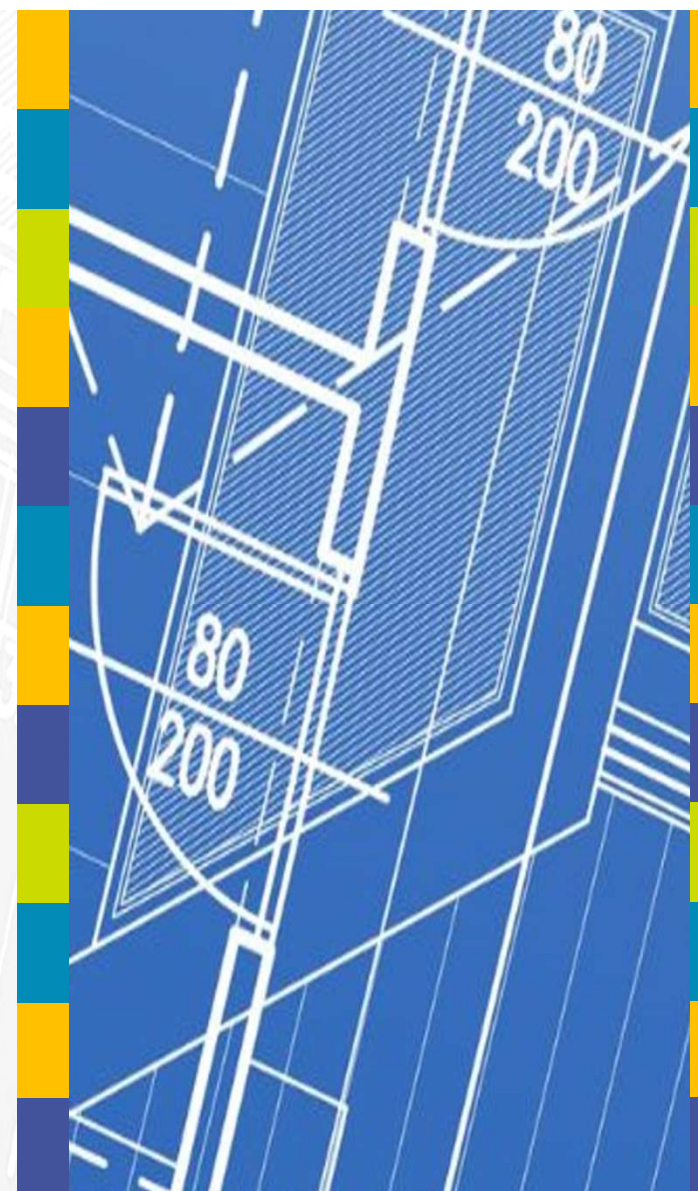


- Why do regulators examine life insurance companies?
- Market conduct.
- Market analysis.
- Regulatory tools.
- Types of examinations.
- Common Issues/Recent Exams.




WHY DO REGULATORS EXAMINE LIFE INSURANCE COMPANIES?

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WHY EXAMINE?

- 
1. Protect the Consumer
 2. Ensure a Level Playing Field for Insurers

MARKET CONDUCT

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MARKET CONDUCT

What is market conduct?

- The behavior of life insurance companies and their producers in the marketplace
- Life insurance companies and producers are required to treat customers fairly
- Market conduct examination oversight activities are designed to confirm that life insurance companies and their producers are complying with applicable laws and regulations in the marketplace



MARKET CONDUCT

How do regulators select companies for market conduct examinations?

- Using market analysis, regulators attempt to identify “outliers” in the marketplace
- Some states conduct examinations on a periodic cycle

MARKET ANALYSIS

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MARKET ANALYSIS



What is market analysis?

- Market Conduct Annual Statement (MCAS)
- Baseline Analysis Tool (BAT)
- Complaints
- Exams in other jurisdictions
- Premium/Policy Growth
- Riders
- Timing/Result of the last exam for significant impact insurers



REGULATORY TOOLS

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REGULATORY TOOLS



- Market Analysis
- Data Calls/Interrogatories
- Continuum of Actions
- Examinations
- Outreach and Education



REGULATORY TOOLS



Data Calls

Data calls have become more prevalent given the inability to conduct on site examinations during the pandemic



REGULATORY TOOLS



Interrogatories

Interrogatories are used to understand the marketplace

Example: *Does your company use annuities as part of their Pension Risk Transfer Transactions?*

REGULATORY TOOLS



Continuum of Actions

Goal

- Develop the least invasive and least costly way to resolve the marketplace problem and mitigate consumer harm

Methodology

- Review existing NAIC resources Collaboration among jurisdictions
- Determine scale of concern (multi-jurisdictional?)
- Determine goal (discontinue practices, remediate, reinstate, etc.)



REGULATORY TOOLS

Continuum of Actions

Informal Options

- Telephone call
- Email
- Meetings
- Interrogatories
- Informal Agreement
- Voluntary Compliance

Formal Options

- Market Conduct Exam
- Cease-and-Desist Order
- Consent Order
- Licensing Proceedings
- Premium Caps
- Restitution/ Remediation

Closure

- No Further Action
- Referral to Other Agencies
- Monitoring
- Education
- Compliance

TYPES OF EXAMINATIONS

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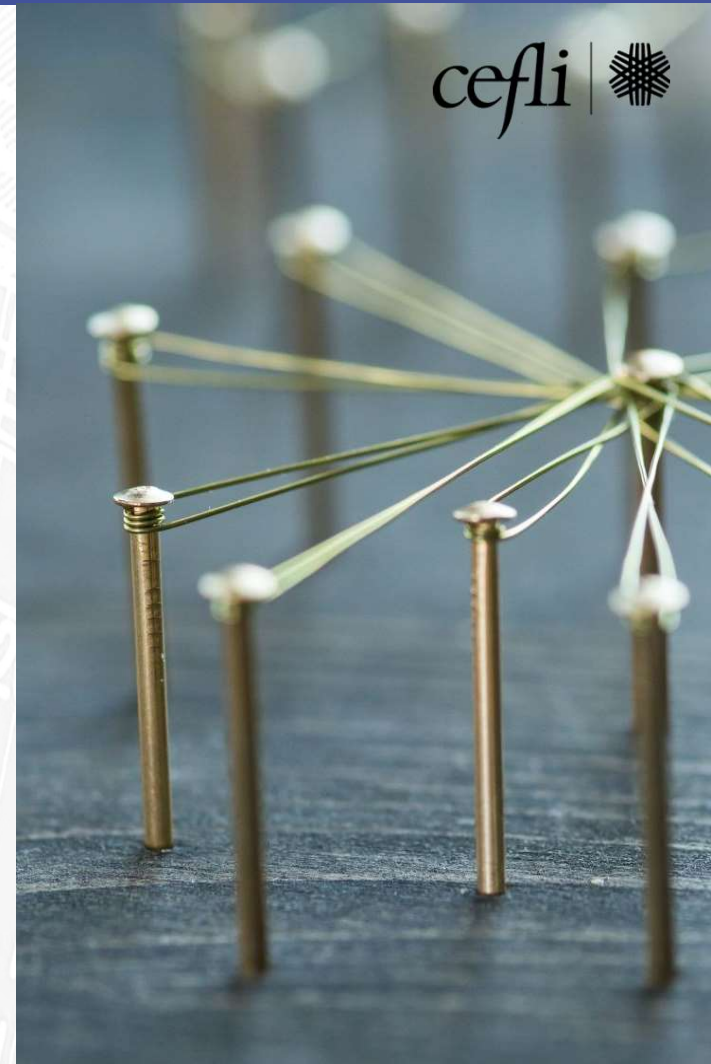
Comprehensive. Looks at most or all aspects of the company

Targeted. A specific topic(s) (e.g., replacements, licensing and appointments, etc.)

Desk. Performed off-site. May be comprehensive or targeted

Multi-State. Multiple jurisdictions (e.g., Unclaimed Property exams)

Re-Exams. A follow-up exam to check compliance with a corrective action plan



STEPS IN THE EXAMINATION PROCESS

Notice to an Examinee

- Formal letter to the company stating authority and scope of review
- Advance notice provided
- Request exam coordinator contact

Pre-Exam Prep

- Create interrogatories
- Preliminary request for materials
- Create standardized data requests
- Set initial call with company staff

STEPS IN THE EXAMINATION PROCESS

Conducting the Exam

- Issues are documented by Information Requests and “CRITs” (Criticisms -Formalized identified violations of law and regulations)
- Discussion and collaboration is the key to getting it right

Exit Conference

- Conclude on-site/remote work

Draft Report

- Vetting all issues and examination language
- Timeline to respond

STEPS IN THE EXAMINATION PROCESS

Final Report

- Will contain all material findings
- Corrective action plan (CAP)

Agreed Order/Consent Order

- Memorializes the agreement
- Possible civil penalties

Administrative/Formal Hearing if there is still disagreement

AREAS REVIEWED DURING AN EXAM

Complaints. Confirmed or not confirmed, cause, response, log record-keeping

Claims. Paid, denied, pending

Underwriting. Issued policies, replacements, surrenders, cancellations

Advertising & Marketing. Misleading, unfair competition

New Business Issue Processes. Use of disclosures, replacements, suitability

Forms. Use of approved forms (contracts, riders and applications)

AREAS REVIEWED DURING AN EXAM



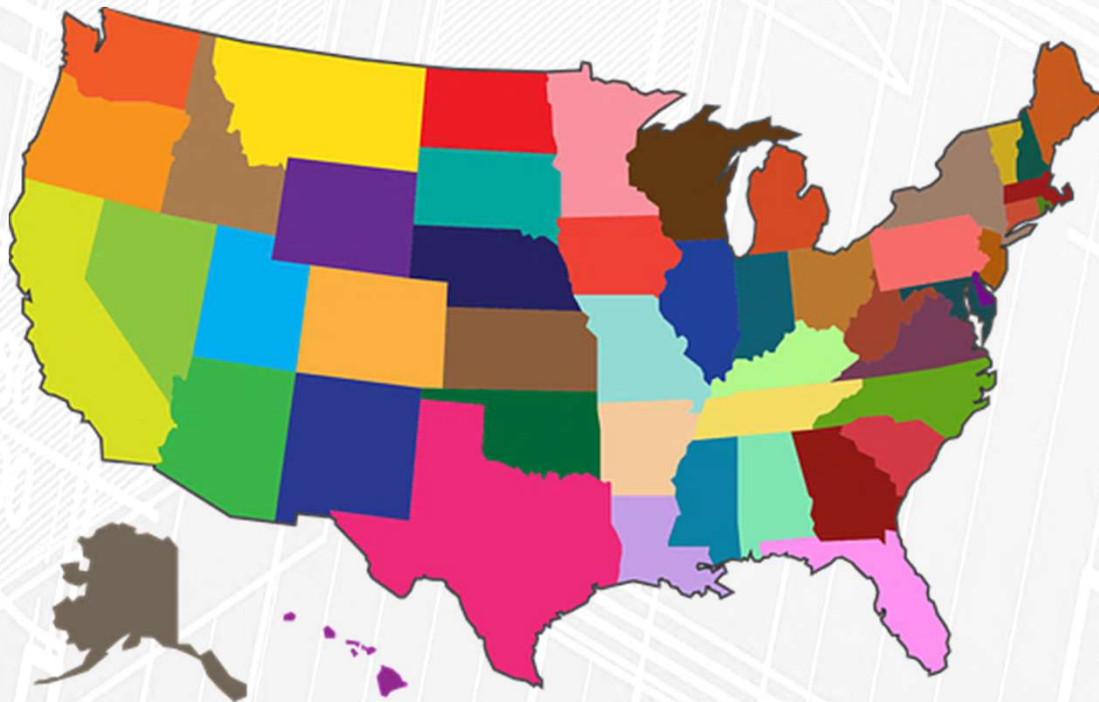
Management, Operations, & Control. Oversight of regulatory and business practices, leadership continuity

Agency/Producer Licensing. Agent licensing and appointment

Policyholder Service. Handling insured requests appropriately and timely

Taxes

MULTI-STATE EXAMS



States collaborate on market conduct issues of national or regional scope

- NAIC Bulletin Boards
- NAIC Chief Market Regulator Forums
- NAIC Market Actions Working Group (MAWG)

MARKET ACTION WORKING GROUP (MAWG)



- MAWG facilitates efficient communication, collaboration, and coordination among states to address the regulatory issue in the most effective manner possible
- MAWG consist of a diverse and geographically balanced membership, and all states can refer issues
- Options to remedy issues include monitoring, demanding company appear and explain, sending letter for response and corrective action, or a multistate examination and settlement

MULTI-STATE EXAMS

- One Managing Lead State, several other Lead States
- Other states are considered Participating States
- If a multistate examination produces findings involving a regulatory penalty or sanction, the action is memorialized through a Regulatory Settlement Agreement (RSA) negotiated by the Lead States

OUTREACH & EDUCATION



Value adding
organizations such as
CEFLI, IRES, AICP, etc.
offer continuing education,
peers for collaboration
& regulator/industry
contacts





COMMON ISSUES/ RECENT EXAMS

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COMMON ISSUES/RECENT EXAMS

Marketing & Sales

- Failure to clearly identify the insurer, agents or agency selling life insurance products
- Failure to provide adequate replacement and suitability documentation and recommendations
- Use of a non-compliant Buyer's Guide
- Failure to disclose the source of statistics used in ads

Training

- Failure to adequately train agents and brokers to conduct proper suitability reviews

COMMON ISSUES/RECENT EXAMS

Policyholder Service

- Failure to send timely annual policyholder statements
- Failure to provide adequate/compliant annuitization disclosure statements

Underwriting

- Use of Unfiled/Unapproved forms

Claims

- Failure to provide claim forms to beneficiary
- Failure to maintain adequate DMF cross checks

QUESTIONS?