



CEFLI Webinar – Regulatory Outlook

May 15, 2024

CEFLI Announcements:

We'll get started shortly after the top of the hour.

Important Information for attendees of the live session:

1. The **presentation deck** will be emailed to you within about 24 hours.
2. A **Certificate of Attendance** template will be included in the email. Note: CEFLI's materials are not filed for CLE or CE with State Bar or other organizations.



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CEFLI Webinar

May 15, 2024

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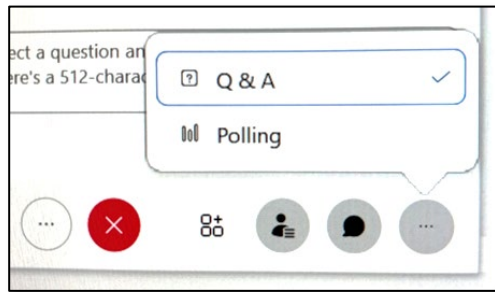
CEFLI Reminders:

This Presentation

- Access to the recording and slides
- Certificate of Attendance

Submitting Questions

- Please use the Q&A Feature (not the Chat feature).
- I'll hold all questions in the queue until the end of each of the three segments.



CEFLI's Antitrust Policy

The Compliance and Ethics Forum for Life Insurers (CEFLI) is committed to adhering strictly to the letter and spirit of the antitrust laws. Meetings conducted under CEFLI's auspices are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.

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Joining us today:



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Session agenda

01 Introductions

02 Artificial intelligence

03 Protection gaps

04 DOL's Retirement Security Rule

05 Q & A

01 Introductions

About the team

Meet the Deloitte team



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02 Artificial intelligence

Emerging risks and regulations are driving governance and compliance trends

Organizations across the AI maturity spectrum are seeking to navigate the complexities of implementing effective governance programs to help stay ahead of a continually evolving technology and regulatory landscape.



- Organizations are largely **in early stages of exploring how to utilize Gen AI** and to do so responsibly

- There has been a realization that **traditional testing and controls are not sufficient** to manage the new and emerging risks

- There is **limited convergence in approaches to ownership of deployment** (e.g., centralized, decentralized). While a majority of the AI/Gen AI risks are managed by Model Risk Management in the banking space, some of the risks require different competencies (e.g., managing ethics-related risks)

- **New risks are being uncovered in real time** (e.g., IP Infringement/Legal Risks)

- **Regulation is evolving in a patchwork fashion**; state, federal, international

- **Leading organizations are embracing the technology** and setting strong internal standards and training for people to leverage these advancements in technology

AI regulatory landscape themes

Among the rapidly evolving AI landscape, key themes of guiding principles and expectations have emerged.

AI Theme	Overview/Specifications	Colorado	New York	Connecticut	Importance of incorporating into your environment
Governance	<ul style="list-style-type: none"> Documented frameworks Oversight Roles and Responsibilities Policies, procedures, principles 	✓	✓	✓	<ul style="list-style-type: none"> Organizational and governance components assign ownership and establishes clear objections which can help manage AAP risks across the enterprise
Controls	<ul style="list-style-type: none"> Detection of discrimination/bias Assessment of unfair outcomes 	✓	✓	✓	<ul style="list-style-type: none"> Assist with mitigating the risks of adverse consumer outcomes to avoid public remediation efforts
Remediation	<ul style="list-style-type: none"> Addressing/remediating of potential or future unfair discrimination/bias Corrective action plan 	✓			<ul style="list-style-type: none"> Having a remediation plan in place to address potential findings will accelerate the speed in resolving conflicts
Model Inventory	<ul style="list-style-type: none"> Up-to-date inventory of models Version control and rationale for changes documented 	✓	✓	✓	<ul style="list-style-type: none"> Understanding your current model inventory at a given time helps with model risk concentrations and promotes decision making in the model lifecycle
Oversight/ Monitoring	<ul style="list-style-type: none"> Third party oversight Ongoing monitoring/review Human oversight 	✓	✓	✓	<ul style="list-style-type: none"> Reliance on third party vendors and their models exposes companies to certain performance management risks which can be avoided with continuous monitoring and oversight
Testing	<ul style="list-style-type: none"> Validation Testing outcomes Quantitative testing² Calculations 	✓		✓	<ul style="list-style-type: none"> Testing efforts are important in validating compliance of current AAP models
Data Privacy/ Transparency	<ul style="list-style-type: none"> Summary of results Provide explanation/notice Protection standards 	✓		✓	<ul style="list-style-type: none"> Being able to provide explanations or testing results can ensure confidence with your consumers as they want to know their personal data is being protected
Explainable	<ul style="list-style-type: none"> Explanation of models in “human terms” Classification of model risk categories 		✓		<ul style="list-style-type: none"> Consumers will trust the results and outputs created by your models if they understand its purpose and behavior

As of 1/17/24 Source: NY Department of Financial Services – Insurance Circular Letter:¹ [Insurance Circular Letter - Proposed: Use of Artificial Intelligence Systems and External Consumer Data and Information Sources in Insurance Underwriting and Pricing](#) |

Source: Colorado Department of Regulatory Agencies – SB21-169: [SB21-169 - Protecting Consumers from Unfair Discrimination in Insurance Practices](#) | [DORA Division of Insurance \(colorado.gov\)](#)

Source: State of Connecticut Insurance Department – Usage of Big Data and Avoidance of Discriminatory Practices: [Data Certification Notice \(ct.gov\)](#)

Q & A



03 Protection gaps

Protection gaps

Understanding the protection gap

1. Definition of the protection gap in insurance.
2. Current state of the protection gap in various sectors (life, health, property, etc.).
3. The impact of the protection gap on individuals and society.

Role of insurance regulation

1. The regulatory agenda.
2. How insurance regulation impacts the market and policyholders.

Insurance regulation & the protection gap

1. How regulatory policies can influence the protection gap.
2. Examples of regulations that have helped narrow the gap.
3. The role of regulatory bodies in addressing the protection gap.

Challenges & solutions

1. Challenges in managing the protection gap through regulation.
2. Potential regulatory strategies to mitigate the protection gap.

Potential strategies to use to help fuel growth and achieve financial inclusion



Q & A



04 DOL's Retirement Security Rule

Retirement Security Rule




On April 23, 2024, the Department of Labor (DOL) released the Retirement Security Rule¹ (the “Rule”), with a revised definition of an investment advice fiduciary, along with amendments to prohibited transaction exemptions (PTEs), including PTE 2020-02 and 84-24.

The Rule replaces the **five-part test** with effectively a **two-part test**. If a person makes an investment recommendation to a retirement investor and receives direct or indirect compensation as a result of the recommendation, then they are a fiduciary if:

- ▶ **The person is in the business of making professional investment recommendations; and**
- ▶ **The circumstances surrounding the recommendation would be viewed objectively as indicating that the recommendation:**
 - **Reflects professional judgement and is individualized (prudence); and**
 - **May be relied upon as being in the retirement investor’s best interest (loyalty)**

PTE amendments

With the amendments, PTE 2020-02 will be the main exemption to rely upon to provide fiduciary investment advice; and PTE 84-24 will provide coverage for independent agents for sales of non-security annuities

	PTE	Final change
	2020-02	Expanded coverage and amended requirements
	PTE 84-24	Limits to independent insurance agents & non-security annuities
	75-1, 77-4, 80-83, 83-1, and 86-128	Exclude fiduciary investment advice transactions while introducing administrative adjustments



¹[2024-08065.pdf \(federalregister.gov\)](https://www.federalregister.gov/documents/2024/04/23/2024-08065)

Rule and PTE impacts (1/2): Factors to consider

The Rule and amended PTEs present varying challenges and opportunities to firms, shaped by distinct factors such as their products and services, business and distribution models, and existing compliance strategies.



1. Rollover strategy



2. Product types and services



3. Distribution model (e.g., independent vs. captive agents)



4. Existing exemption strategy



5. Existing programs for other fiduciary / best interest standards

Rule and PTE impacts (2/2): Key impacts and questions to ask

Firms can ask themselves questions to begin to appreciate the impact of the Rule and amended PTEs on their business models. The answers to these questions can also help firms begin to formulate actions to take between now, September 2024 and beyond.

Rule and amended PTE key impacts

Expanded definition of fiduciary investment advice to include one-time advice, including rollover advice



Key questions for firms to ask

- Where do we currently offer one-time advice or other types of advice that may be considered fiduciary advice with the Rule?
- Where do we currently offer education only instead of investment advice?
- What is our rollover strategy?

Consolidation of PTEs & the prominence of PTE 2020-02



- What is our current exemption strategy?
- Where do we currently rely on PTE 84-24 or other PTEs other than 2020-02?
- How effective is our current PTE 2020-02 compliance program, and how heavy a lift will the amendments be?

PTE 84-24 is available only for independent agents selling non-security annuities



- What will our future state distribution model be, and what will our strategy for independent agents be?
- What is the gap between our current oversight of independent agents vs. conditions of PTE 84-24?
- What are independent agents expecting from us to help them comply with PTE 84-24 conditions?

An umbrella fiduciary standard for retirement investment advice



- Where do we provide investment advice to retirement investors that will be subject to multiple best interest / fiduciary standards?
- How can we harmonize compliance with multiple standards?

Q & A



05 Overall Q & A



Q & A and contact information



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Closing CEFLI Reminders:

Post Presentation

- Registrants who attended the live session will receive:
 - Access to a short post-event survey
 - A Certificate of Attendance (live attendees) form
- All Registrants will receive:
 - A PDF of the presentation deck
 - A link to the recorded event

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- While CEFLI does not utilize bios for Webinar speakers, it references its presenters by name, title and affiliation, within the presentation materials and on each Certificate of Attendance. Its participants are industry experts in their respective fields.
- The topics covered address life/annuity compliance and ethics matters (no sales/marketing content).
- CEFLI Does not have a way of knowing how many attorneys attend its events.
- While CEFLI does not utilize a timed agenda, its webinars are one-hour in duration.
- Participants may ask questions during an event using the Q&A feature in the Webex.
- CEFLI is a compliance and ethics organization whose mission is to support compliance, ethics, legal and risk management professionals in the life insurance industry.

CEFLI Reminders (continued):



June Webinar:

- CEFLI's next Joint Educational Webinar will take place on Tuesday, June 18th at 1 PM ET/ Noon CT/ 11 AM MT/ 10 AM PT.
- The event will feature **Fred Reish, Partner** at CEFLI Affiliate Member, **Faegre Drinker**, on the subject of the DOL Fiduciary Rule.
- Registration is open and may be accessed at: <https://cefli.org/webinars/>



Thank you for joining us today!



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