

Agenda

CEFLI Compliance & Ethics Committee Meeting
Thursday, June 20, 2024
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.

[June Meeting Registration](#)

CEFLI encourages you to turn on your camera when joining the meeting 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.

- | | | |
|------|--|--------------------------|
| I. | Welcome and Introduction. | Donald J. Walters |
| | A. Antitrust Statement. | |
| II. | Approval of Minutes – May 16, 2024 Meeting. | The Committee |
| III. | Issues for Review. | The Committee |
| | A. Account Takeover Activity. | |

The life insurance industry has been subject to several fraudulent attempts to pursue “Account Takeovers” (ATOs) to gain access to funds associated with customer accounts. ATO activity in the industry rose significantly several years ago and appears to have abated in recent years.

However, several life insurance companies are reporting a significant increase in ATO activity in the past several months.

Accordingly, a question has been presented to allow members of the Committee to comment upon whether their companies are experiencing a significant increase in ATO activity over the past several months.

The Committee will be asked to discuss their company’s experience with account takeover activity over the past several months.

B. Offshore Compliance Functions.

Many life insurance companies rely upon offshore employees to perform various compliance functions.

As this practice has become more commonplace throughout the industry, questions have been presented to determine the extent to which compliance departments may be “off shoring” various compliance functions at their respective companies.

Specifically, several questions have been presented including:

- *What percentage of your company's compliance headcount represents offshore functions?*
- *What types of compliance work is managed through offshore functions?*

The Committee will be asked to discuss the extent to which their company's compliance functions may be conducted offshore.

C. Suitability Reviews - Ongoing Monitoring and Documentation - Annuity Contract Renewals.

Life insurance companies will conduct suitability reviews of initial transactions related to annuity product sales.

When annuity products may be eligible for renewal (such as in the case of a multi-year guaranteed annuity product up for renewal for a new crediting period/duration), company practices may vary with respect to whether the renewal may undergo a suitability review.

Therefore, a question has been presented concerning whether companies may have modified their suitability review practices to implement ongoing monitoring of suitability for multi-year guaranteed annuity products that may be eligible for renewal.

Moreover, a separate question has been presented concerning whether suitability/best interest reviews may still be required to be performed by producers as part of the supervision system of the insurer. If so, would this also require the producer to document and retain the suitability analysis for the renewed product?

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

The Committee will be asked to discuss their company's practices with respect to conducting suitability reviews of annuity products that may be eligible for renewal and whether companies may require their producers to document and retain a "new" suitability analysis for the renewed annuity product.

D. Annuity Suitability Training Requirements - Multiple Jurisdictions.

The recent adoptions of the NAIC Suitability in Annuity Transactions Model Regulation may present different timelines with respect to completing appropriate annuity suitability training requirements.

To explore this issue in more detail, a hypothetical has been presented for analysis:

- Agent Jones is licensed in South Carolina and West Virginia.
- South Carolina requires the one-hour additional Annuity Suitability training for previously appointed agents to be completed by May 27, 2023.
- West Virginia requires the one-hour additional Annuity Suitability training for previously appointed agents to be completed by December 8, 2023.
- Agent Jones completed the one-hour training on July 13, 2023 (i.e., general training, not tied to a specific state).

- *Under this fact pattern, must Agent Jones complete a new four-hour training before selling additional business in South Carolina? OR*
- *Because Agent Jones completed the one-hour training to comply with West Virginia requirements, Agent Jones can take advantage of reciprocity between South Carolina and West Virginia to allow him to conduct business in South Carolina?*

The Committee will be asked to discuss how their companies would interpret the implications of this fact pattern related to annuity suitability training requirements in different jurisdictions and their impact upon a licensee's (e.g., Agent Jones) ability to conduct business by taking advantage of reciprocity between states.

E. Minnesota Issues.

1. Minnesota Long-Term Disability Income Required Notice of Limitation of Mental Health Disorder Coverage.

Minnesota recently passed a revision to Minnesota Regulation 60A.434 (Disability Income Coverage; Disclosure) which requires a long-term disability policy that limits duration of coverage for mental health or substance abuse disorders to include a disclosure at the time of application notifying the applicant that the mental health or substance abuse coverage is limited. The language of the pertinent regulation is set forth below:

*Sec. 2. [60A.43] DISABILITY INCOME COVERAGE; DISCLOSURE.
(a) No contract or policy of long-term disability insurance that limits the duration of coverage for mental health or substance use disorders shall be offered in this state without a disclosure, provided at the time of application, that includes the following:
(1) a notification that the long-term disability coverage selected by the potential policyholder or plan sponsor limits the duration of coverage for mental health or substance use disorders; and
(2) that the potential policyholder or plan sponsor has the right to request more information about the limitation and other coverage options that include an unlimited duration, if available.
(b) Receipt of the disclosure described in paragraph (a) must be acknowledged by the potential policyholder or plan sponsor and evidence of the disclosure and acknowledgment must be retained by the insurance company offering the coverage for a period of no less than two years.
EFFECTIVE DATE. This section is effective October 1, 2024.*

Several questions concerning this regulation have been presented including:

- *Has any company received input or guidance from the Minnesota Department of Commerce regarding this regulation in terms of whether the Minnesota Department of Commerce has a proscribed form or whether the disclosure has to be filed?*
- *How are companies handling (or planning to handle) this new requirement? Will you be adding disclosures to your application packets (whether paper or electronic)? Will you rely upon the agent to provide the disclosure? Will you rely upon another strategy?*

The Committee will be asked to discuss their company's strategies to comply with the new notice of limitation of mental health disorder coverage for long-term care disability income policies as required under revised Minnesota regulations.

2. Minnesota Annual Notice Requirement.

Minnesota recently passed a revision 61A.012 requiring an annual notice for “each policy of individual life insurance issued or delivered in Minnesota.” The regulation seems, in scope, to not be limited to illustrated products only. The regulation indicates in subsection 3 that the life insurance company can satisfy the requirement by compliance with 61A.735. However, 61A.735 applies only to life insurance policies that must be illustrated and 61A.735(d) provides specifically that life insurance policies that do not build nonforfeiture values are only required to provide an annual report for years were changes made to the nonguaranteed policy elements by the insurer. The language of the pertinent regulations is set forth below:

Sec. 3. [61A.012] ANNUAL NOTICE REQUIRED. Subdivision 1. Annual notice required. For each policy of individual life insurance issued or delivered in Minnesota, a life insurance company must provide a written notice to the policyholder that contains the following information, as applicable: (1) the policyholder; (2) the policy number; (3) the insured life; and (4) the current contact information for the life insurance company. Subd. 2. Notice requirements. The notice required under this section must be provided by the life insurance company to the policyholder at least once per calendar year, sent via United States mail to the policyholder's last known address or electronically to the policyholder's last known email address. Subd. 3. Compliance with other law. This section's annual notice requirement is satisfied by an annual report provided by a life insurance company to a policyholder pursuant to and in compliance with section 61A.735. EFFECTIVE DATE. This section is effective January 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

61A.735 ANNUAL REPORT; NOTICE TO POLICY OWNERS.

(a) In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that must contain at least the information in this section....

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

(d) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

There appears to be a conflict with respect to the cross-reference of Minnesota regulations under 61A.012.

Accordingly, a question has been presented concerning whether any company has received input or guidance from the Minnesota Department of Commerce concerning this regulation and its apparent conflict. In addition, has any company received input or guidance from the Minnesota Department of Commerce concerning what is required for non-illustrated life insurance policies such as term life? How are companies planning to handle this requirement?

The Committee will be asked to discuss whether any company has received input or guidance from the Minnesota Department of Commerce concerning an apparent conflict with respect to the cross-reference of Minnesota regulations under 61A.012 and how companies may be planning to address this Minnesota-specific requirement.

F. Non-Resident Sales - State of Issuance.

Life insurance companies are often presented with sales that may take place in a state other than the customer's state of residence (i.e., non-resident sales).

When non-resident sales are presented, the life insurance company must make a determination as to the state in which the policy/contract is going to be issued.

- *If a non-resident sale is presented to your company, does your company issue the policy/contract in the state where the application is being solicited and signed or does your company issue the policy/contract in the customer's state of residence?*

The Committee will be asked to discuss their company's practices with respect to the determination of the state of issuance for a policy/contract that constitutes a non-resident sale.

G. State Advertising Requirements.

One of the challenges life insurance companies face is to determine and comply with the multiplicity of various state advertising requirements.

In this regard, several specific questions have been submitted concerning state advertising requirements. They include:

- *Do advertisements for term products in Oregon need to be filed?*
- *Do advertisements for Accelerated Benefit Riders in California need to be filed?*
- *Do advertisements (for all products) need to be filed in North Carolina?*
- *Do advertisements (for all products) need to be filed in Texas?*

The Committee will be asked to discuss their company's interpretation and application of state advertising requirements as noted above.

H. California Senate Bill 263 - Life Insurance and Annuity Laws.

California recently enacted [Senate Bill 263](#) to introduce new life insurance and annuity laws in the state of California.

1. Life Insurance Training Verification.

Senate Bill 263 added Section 1749.81 to the California Insurance Code which requires life insurance agents to complete specific training (life insurance agents licensed after January 1, 2024 selling policies other than term life with no cash value must complete 4 hours prior to soliciting non-term life; life agents that sell variable life need to complete 2 hours of training prior to renewal).

There is no language indicating that insurers are responsible for verifying the training was completed prior to issuing a life policy, as there is with the annuity suitability training.

Senate Bill 263 also added Section 10509.9205(G) to the California Insurance Code pertaining to annuity suitability training which reads as follows:

“An insurer shall verify that a producer has completed the annuity training required under this section before allowing the producer to sell an annuity for that insurer.”

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

Given that Section 1749.81 regarding life insurance training is silent about verification of completed training, two questions have been presented:

- *Do companies interpret this to mean that the California Department of Insurance will be solely responsible for assuring these courses are completed prior to issuing/renewing a license?; or*
- *Are companies planning on performing a check for completed life insurance training prior to issuing a new policy of life insurance in California?*

The Committee will be asked to discuss their company's strategies to verify successful completion of life insurance training as required under California Senate Bill 263.

2. Written Record of the Recommendation.

Senate Bill 263 also added Section 10509.9204(a)(4)(A) to the California Insurance Code which requires a producer to provide the consumer *and the insurer* with a written record of the recommendation and the basis for the recommendation.

Accordingly, several questions have been presented including:

- *Is your company creating a form for the producer to use for this purpose or are you permitting producers, IMOs, agencies and broker-dealers to develop their own forms for this purpose?*
- *If you have delegated suitability review to a broker-dealer or other third-party distributor, are you allowing the third-party distributor to maintain the "written record of the recommendation" in their records or are you requiring the producer to provide a copy of the "written record of the recommendation" at the time of the application?*

The Committee will be asked to discuss their company's strategies with respect to complying with the California Senate Bill 263 requirement to provide the consumer and the insurer with a written record of the recommendation and the basis for the recommendation.

I. Courtesy Copies of Policyowner Correspondence.

Life insurance companies will often provide “courtesy copies” to producers (e.g., independent producers) of correspondence sent to policyowners.

Several questions have been presented concerning this practice including:

- *Has your company stopped sending physical “courtesy copies” of policyowner correspondence to producers in favor of providing electronic copies only?*
- *If your company is providing “courtesy copies” of correspondence electronically, are there specific types of documents where the “courtesy copies” of policyowner correspondence are still being sent to producers via physical mail?*
- *If your company is no longer providing physical “courtesy copies” of correspondence, does your company provide electronic “courtesy copies” to producers exclusively through a website they are required to log into in order to view these documents?*
- *How frequently, if at all, do you remind producers of any new documents posted to such a website?*
- *What issues have you encountered in getting producers to enroll on the website and monitor the electronic “courtesy copies” of correspondence provided?*
- *Have you encountered any statutory/regulatory challenges associated with this approach?*

The Committee will be asked to discuss their company’s practices with respect to providing “courtesy copies” of policyowner correspondence to producers.

J. Insurance Licenses for Non-Selling Home Office Employees.

Some life insurance companies permit non-selling home office employees to hold insurance licenses. Companies that permit this practice often acknowledge that non-selling home office employees can benefit from the training required to obtain an insurance license.

However, there are costs and other company resources that may be expended to support this practice.

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

Therefore, several questions have been presented for discussion including:

- *Does your company support non-selling home office employees to obtain insurance licenses?*
- *Does your company allow non-selling home office employees to hold insurance licenses?*
- *Does your company pay the costs to allow non-selling home office employees to study and take the licensing exams?*
- *Does your company pay continuing education costs to allow non-selling home office employees to maintain their insurance licenses?*

The Committee will be asked to discuss their company's strategies to support/permit non-home office employees to obtain insurance licenses.

K. Food Gift Cards.

Since the onset of the Covid pandemic, companies have been conducting more of their meetings on a virtual basis. In some instances, companies have provided food gift cards to allow employees to obtain food during the course of these virtual meetings.

IRS guidance suggests that food gift cards exceeding a \$600 threshold on an annual basis may constitute earned income requiring issuance of a Form 1099 to be issued to the recipient of the food gift card.

Therefore, several questions have been presented concerning the use of food gift cards for employees that may be attending virtual meetings including:

- *Does your company provide food gift cards for employees that may be attending virtual meetings?*
- *Does your company prohibit food gift cards for employees that may be attending virtual meetings?*
- *Does your company track the total annual amount of food gift cards provided to employees and, if those amounts exceed \$600, is your company providing a Form 1099 to the employee?*

The Committee will be asked to discuss whether their company permits/prohibits use of food gift cards for employees who may be attending virtual meetings.

L. Form W9 Certification.

Life insurance companies will often request IRS Form W9 to certify a taxpayer's Social Security number.

A question has been presented concerning practices associated with obtaining Form W9 in annuity administration. Specifically:

- *Does your company require a Form W9 certification as part of your annuity application or is it a separate form?*
- *At what point is the W9 certification requested, at time of issue or at a later time (e.g., when a distribution may be requested)?*

The Committee will be asked to discuss their company's practices with respect to requesting a Form W9 certification as part of annuity administration practices.

M. Annuity Funding - ERISA Title I Funds.

With the introduction of the new DOL Fiduciary Rule, it will become more important for life insurance companies to identify the source of funds for annuity transactions.

As a result, several questions have been presented concerning the identification of ERISA Title I Funds to fund annuity transactions including:

- *Does your company currently ask whether annuity transactions are funded by ERISA Title I funds?*
- *If so, does your company identify options on the annuity application and require agents to indicate which ERISA Title I account the funds are coming from (e.g., 401(k), 403(b), etc.)? OR*
- *Does your company allow producers to have an option to indicate the annuity is funded by ERISA Title I funds and then allow the producer to define (somewhere on the application) what type of account constitutes ERISA Title I funds?*

The Committee will be asked to discuss whether their company currently requires producers to identify whether annuity transactions are being funded by ERISA Title I funds.

N. Training for “Contingent Workers.”

Life insurance companies work with a variety of different service providers, consultants, independent contractors and temporary workers which some companies characterize as “contingent workers.”

A question has been presented concerning whether companies require their “contingent workers” to undergo compliance training.

The Committee will be asked to discuss whether their companies require their “contingent workers” to undergo compliance training.

IV. Reporting Items.

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

The state of Louisiana recently adopted the NAIC Suitability in Annuity Transactions Model Regulation bringing the total state adoptions to 46. The [state’s Regulation 89](#) was effective on May 20, 2024.

To date, CEFLI is aware of adoptions of the revised Model Regulation in the following states: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

CEFLI understands adoptions are in progress in the states of Nevada and Missouri and in the District of Columbia.

CEFLI understands only New Jersey and New York have not proposed or adopted the revised Model regulation.

B. FINRA Introduces New Web Page for Remote Inspections Pilot Program.

FINRA recently announced that it has created a new webpage for its voluntary Remote Inspection Pilot Program which starts on July 1, 2024 and ends on June 30, 2027.

- ANNUAL CONFERENCE: [CEFLI’s Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI’s job board](#) at any time. Positions remain posted for 90 days.

The program will allow eligible member firms to have the flexibility to be inspected “without an on-site visit to the office or location, subject to specified terms that include conducting and documenting a risk assessment and producing written supervisory procedures for conducting remote inspections and inspection data to FINRA.”

Also, FINRA reminded firms that Rule 3110.17, the temporary remote inspections rule, will end on June 30.

C. Senators Introduce Resolution of Disapproval to Overturn the DOL Fiduciary Rule.

Four Senators, Ted Budd, R-NC; Bill Cassidy, R-La.; Joe Manchin, D-WV; and Roger Marshall, R-Kansas introduced a resolution of disapproval under the Congressional Review Act to overturn the DOL Fiduciary Rule.

The Congressional Review Act allows Congress to overturn rules issued by a presidential administration through joint resolution of disapproval. The resolution must be passed by the House and Senate and be signed by the president or, if Congress overrides a presidential veto, the rule at issue is overturned.

D. Lawsuit Seeks to Vacate New DOL Fiduciary Rule.

The Federation of Americans for Consumer Choice and several independent insurance agents and agencies filed a lawsuit in the US District Court for the Eastern District of Texas to argue that the DOL exceeded its authority in developing the new DOL Fiduciary Rule and, as such, the Rule should be vacated under the Administrative Procedures Act.

The same plaintiffs also recently filed for preliminary injunction seeking to delay implementation of the DOL Fiduciary Rule. The filing seeks to stay the effective date of the 2024 DOL Fiduciary Rule and its amendments to PTE 84-24.

V. CEFLI Activities.

A. CEFLI’s 2024 Annual Conference.

Registration is open! CEFLI’s 2024 Annual Conference will take place September 22-24, 2024 at the JW Marriott Austin. Links to [general information](#), [the agenda](#) and the [registration page](#) are included here. We hope you can join us in Austin this fall!

- ANNUAL CONFERENCE: [CEFLI’s Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI’s job board](#) at any time. Positions remain posted for 90 days.

B. CEFLI May 15th Joint Educational Webinar: The DOL Fiduciary Rule.

CEFLI conducted a Joint Educational Webinar on the DOL Fiduciary Rule earlier in the week, on June 18th. The event featured a leading, national authority on the DOL Fiduciary Rule, Fred Reish, Partner with CEFLI Affiliate Member Faegre Drinker. During the webinar, Mr. Reish addressed a number of questions submitted in advance by webinar attendees. The webinar recording and presentation materials may be accessed from the Previous Webinars section toward the bottom of CEFLI's [Webinar page](#) on CEFLI.org.

C. CEFLI July 17th Joint Educational Webinar - CEFLI Affiliate Member Guidehouse.

CEFLI will conduct a Joint Educational Webinar with CEFLI Affiliate Member Guidehouse on Wednesday, July 17th. Registration is open and you may register [here](#).

D. CEFLI Compliance Leadership Development Forum.

CEFLI conducted the final installment of the 'Class of 2024' Compliance Leadership Development Forum on Thursday, June 6th. The session focused on Applying Your Leadership Skills. Information regarding the 'Class of 2025' Compliance Leadership Development Forum will be communicated to Member Company CCOs in July or August and the 2025 cohort will commence in early October.

E. Fraud and AML Networking Forum.

A meeting of CEFLI's Fraud & AML Networking Forum took place on May 21st. The Forum meets quarterly for 60-90 minutes to discuss agenda topics submitted by Forum Members. Individuals interested in joining the Forum may contact De Keimach at DeKeimach@CEFLI.org.

VI. Next Meeting.

The next meeting of the CEFLI Compliance & Ethics Committee will take place on: Thursday, July 18, 2024 at 2:00 PM ET/ 1:00 PM CT/ 12:00 PM MT/ 11:00 AM PT. You may register for the meeting using this link: [July Meeting Registration](#)

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

The remaining 2024 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, August 15 [August Meeting Registration](#)
- Thursday, September 12 [September Meeting Registration](#)
- Thursday, October 17 [October Meeting Registration](#)
- Thursday, November 21 [November Meeting Registration](#)
- Thursday, December 19 [December Meeting Registration](#)

VII. Other Business.

The Committee will be asked to identify and discuss any other business to be brought before the Committee.

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

DRAFT

Minutes

**CEFLI Compliance & Ethics Committee Meeting
Thursday, May 16, 2024
2 PM ET/1 PM CT/12 Noon MT/11 AM PT
Via Webex**

I. Welcome and Introduction.

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

A. Antitrust Statement.

II. Approval of Minutes – April 18, 2024 Meeting.

On motion, duly made and seconded and unanimously carried, the Committee RESOLVED that the Minutes of the April 18, 2024 meeting were approved.

III. Issues for Review.

A. Social Security Administration Death Master File Matching Processes

Life insurance companies carry out a number of controls related to the management of potential unclaimed property. Life insurance companies often work with vendors to facilitate a review of the life insurance company's policyowners and insureds/annuitants against the Social Security Administration's Death Master File (DMF).

In doing so, some life insurance companies share their entire client database with their contracted vendor. Recent challenges have developed with respect to vendor expectations regarding the content of the life insurance company's file used for comparison against the DMF.

Specifically, a vendor recently asked a CEFLI Member company to exclude, from its data file to the vendor, all records pertaining to minors and all records associated with individuals who have a non-U.S. address.

Committee members have not encountered similar requests to limit information submitted for DMF comparisons. As understood by Members, the requirement does not exclude minors or persons with non-U.S. addresses.

B. Requesting Gender/Sex Information on Annuity Applications.

Many life insurance companies will ask a question on their annuity applications to confirm the gender/sex of an applicant for an annuity contract.

However, in an environment in which identification of gender/sex may take additional forms beyond male or female (e.g., non-binary), a question was posed to determine what company practices may be with respect to requesting this type of information on applications and whether the information obtained is printed on the annuity contract pages.

Committee members reported they currently ask for birth gender as mortality tables are not supportive of responses other than male or female. A Member noted that some jurisdictions permit an “X” to be used in place of gender on driver’s licenses. Members responded that they use what has been provided on the application as opposed to the driver’s license (a copy of which may be obtained to satisfy certain privacy requirements). Members further advised that policy pages are produced containing the gender information provided on the application.

C. Paper Applications versus Electronic Applications.

As the life insurance industry moves toward greater use of electronic applications, companies are considering policies and procedures that would discourage use of paper applications versus encouraging use of electronic applications. One method to discourage use of paper applications might be to charge an agent an application fee for the submission of a paper application.

Several questions were presented to determine current practices with respect to this issue including:

- *Does your company permit paper applications or does your company require agents to use electronic applications exclusively?*
- *If your company permits paper applications, do you charge the agent an application fee?*
- *If your company permits paper applications, do you plan to revise your policy in light of new DOL Fiduciary Rule requirements and only permit electronic applications for qualified business?*

Overall, Committee members are still using paper applications in addition to accepting e-applications, with paper being utilized less frequently. None of the Members who responded indicated their companies charge for paper applications and several noted they continue to use paper to accommodate producers and customer who prefer to use it. It was also noted that the Uniform Electronic Transactions Act (UETA) requires paper be provided upon request.

D. Non-English Languages - Annual Policy/Contract Statements.

Life insurance companies operate in many jurisdictions. In fact, many life insurance companies conduct operations in Puerto Rico or other jurisdictions where the primary language may be a language other than English (e.g., Spanish).

In these jurisdictions, life insurance companies are often required to provide annual policy/contact statements in the primary language of the jurisdiction (e.g., Spanish in the case of Puerto Rico).

A question was presented concerning whether any other jurisdictions may require life insurance companies to provide annual policy/contract statements in a language other than English if requested by an owner.

Committee members advised that they were not aware of any jurisdictions with the same requirement Puerto Rico has in place.

E. Electronic Funds Transfer Payments - Online Banks.

Some life insurance companies will issue payment for policy surrenders and claim payments via electronic funds transfer (EFT).

In recent years, several online banks (e.g., Chime, MetBank, GreenDot) have been established to facilitate banking transactions for consumers.

Several questions were presented concerning EFT payments including:

- *Does your company issue EFT payments to online banks?*
- *Are you aware of any online banks that will not permit receipt of EFT payments?*

Committee Members reported that they would confirm the bank account information via GIACT and would permit if cleared. A question was raised as to which of the banks listed, if any, would a company not permit business with, and

one Member advised they do not permit transactions to be sent to GreenDot Bank.

F. Responsibility for ADA/WCAG Compliance.

The Americans with Disabilities Act (ADA) requires state and local governments and businesses open to the public to ensure that their websites are accessible to people with disabilities.

The Web Accessibility Initiative of the World Wide Web Consortium has published Web Content Accessibility Guidelines (WCAG) to make website content more accessible for people with disabilities.

A question was presented concerning how life insurance companies assign responsibility for ADA/WCAG compliance within their organizations; specifically:

- *What areas within your life insurance company are assigned responsibility for ADA/WCAG compliance functions?*

Committee members manage ADA/WCAG compliance in a variety of ways. In some cases, a corporate communications team owns the function and Compliance works with them as well as the IT team. In other cases, Compliance owns the function and works with corporate communications and IT. One Member's product team owns the process (as they maintain the company's website), and they receive input from legal.

G. Follow-Up Examinations - Unclaimed Property - Regulatory Settlement Agreements.

Several years ago, many life insurance companies entered into Regulatory Settlement Agreements (RSA) to resolve issues associated with Unclaimed Property examinations by state insurance regulatory authorities.

Now that these Regulatory Settlement Agreements have been in place for several years, some state insurance departments have begun "follow-up" examinations to determine compliance with the terms of the original RSA.

Several questions were presented concerning these examinations including:

- *Has your company experienced a "follow-up" examination related to your company entering into an RSA related to unclaimed property practices?*

- *If so, what has been your experience with these examinations (e.g., what have been the areas of focus for the examination and what has been the general approach of the examiners?)?*

A Committee member shared an experience with a prior company where the lead state did re-examine 2-3 years after the RSA was executed. They walked through the entire RSA to test compliance.

H. Organizational Structure for Suitability Reviews.

Many companies have dedicated teams within Compliance to conduct suitability reviews for annuity transactions. Other companies may conduct suitability reviews for annuity transactions within Compliance but may not have a dedicated team to perform this function.

In other instances, these suitability reviews may be conducted elsewhere within life insurance company's organizational structure. For example, at some companies, suitability reviews of annuity transactions may take place within Operations, Legal or Sales/Marketing.

A question was presented to discern which areas within a life insurance company's organizational structure assumes responsibility for conducting suitability reviews of annuity transactions.

Responsibility for suitability review is handled in several ways according to Committee members. In some instances, the primary responsibility rests within Compliance and, in other instances, Compliance is responsible for delegated and escalated reviews. Members shared that responsibility may also reside in a variety of operations units.

Mr. Walters encouraged all participants to refer to CEFLI's 2024 Compliance and Ethics Benchmarking Survey for more insight into this topic.

I. Product Filing - Turnaround Times.

Life insurance companies are required to file their products for approval in various states. Many life insurance companies also choose to file their products for approval through the Interstate Insurance Compact (the "COMPACT").

A member of the Committee was interested in gathering feedback concerning the amount of time companies have experienced from submission to disposition of product filings in various states as well as through the COMPACT.

Committee members shared several timing experiences. When filings were expedited, Members reported an 8-10 week turnaround or in another case, 60 days. (New York filing experiences were not included in those response times.)

Members noted that Long Term Care filings take longer in some jurisdictions (California in particular). The Association of California Life and Health Insurance Companies may be a resource for those filing situations.

Filings in New York are taking approximately 10 months according to Members. Group annuity filings, which may be complete on a state-by-state basis, are taking upwards of a year in some jurisdictions.

J. Insurer Verification – Life Training Requirements - California Annuity Suitability - California Senate Bill 263.

Section 1749.81 of California Senate Bill 263 requires four hours of Commissioner-approved training prior to a producer soliciting non-term life policies (and two additional hours to sell variable products).

Section 10509.9205 requires annuity training and includes a subsection as follows:

“(g) An insurer shall verify that a producer has completed the annuity training required under this section before allowing the producer to sell an annuity for that insurer. An insurer may satisfy its responsibility under this paragraph by obtaining certificates of completion of the training course or obtaining reports provided by the commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.”

California Senate Bill 263 does not appear to have a similar obligation with respect to requiring insurers to verify life insurance product training under Section 1749.81.

Therefore, questions were presented concerning:

- *Does your company interpret Section 1749.81 to require insurer verification of life training (similar to the requirement for annuity training)?*
- *If so, what is the basis for this interpretation?*
- *Is anyone aware of whether the California Department of Insurance has issued guidance on this matter?*

Committee Members advised that, while they wait to learn exactly what the training requirements are, they are considering proceeding with applying the requirements applicable in other states and will verify at the time of application.

K. Social Security Numbers on Applications.

Life insurers may request the Social Security Number of an applicant for a life insurance policy or an annuity contract. However, it has been suggested that some companies may request this information on application forms but may not require it to be completed.

A company that includes a request for a Social Security Number on the application form for life insurance policies or annuity contracts and requires that information to be completed sought a discussion of practices in this area in order to gauge current industry standards.

Committee members reported that they do require a Social Security or Tax Identification number on the application.

L. NAIC Artificial Intelligence Bulletin Notice Requirements.

Several states have recently adopted the NAIC's [Artificial Intelligence Bulletin](#). Within the Bulletin, insurers are required to provide notice to their impacted consumers to inform them that Artificial Intelligence Systems are in use.

Accordingly, a question was presented concerning how insurers may plan to fulfill these notice requirements including:

- *Does your company plan to incorporate the notice that is required under the NAIC Artificial Intelligence Bulletin into general notices to consumers? Product-specific notices?*

A Committee member advised that California might require the notice be included on a public-facing website or might be something that needs to be included in the application process.

IV. Reporting Items.

A. DOL Fiduciary Rule Released.

The DOL issued final regulations (the "DOL Fiduciary Rule") to update its definition of an investment advice fiduciary as well as amendments to several prohibited transaction exemptions that had been under review by the Office of

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

Management and Budget and anticipated by the life insurance industry for several months. Links to the amended Rule and prohibited transaction exemptions can be found on the [Additional Resources page](#) of CEFLI.org.

The DOL Fiduciary Rule will present unique compliance challenges for life insurers. The DOL Fiduciary Rule remains controversial and is anticipated to be the subject of legal challenges.

CEFLI will be conducting a webinar on Tuesday, June 18 with Fred Reish, a nationally recognized expert in ERISA law with CEFLI Affiliate Member law firm Faegre Drinker, to provide an overview of the revised DOL Fiduciary Rule and will also be reviewing top questions posed by CEFLI members (see infra).

B. FINRA Home Office Inspections Rule - Effective June 1.

FINRA's new rules to treat home offices as "residential supervisory locations" for its remote inspections pilot program will take place within the coming weeks.

The SEC approved the proposed rules in November 2023 and FINRA adopted the new rules on January 24, 2024. The rules impacting residential supervisory locations will become effective on June 1, while the Remote Inspections Pilot Program begins July 1.

The new rule will treat a private residence at which an associated person engages in specified supervisory activities, subject to certain safeguards and limitations, as a non-branch location. As a non-branch location, this newly defined residential supervisory location will be subject to inspections on a regular periodic schedule (presumed to be at least every three years) instead of the annual inspection currently required for an office of supervisory jurisdiction.

C. SEC Issues Risk Alert - Advisers Act Marketing Rule Compliance.

The SEC's Division of Examinations recently issued a [Risk Alert](#) to provide investment advisers with observations concerning recent examinations designed to determine compliance with the SEC's amended Rule 206 (4)-1 (the "Marketing Rule") as well as the Advisers Act Rule 204-2 (the "Books and Records Rule").

Observations of concern noted during these examinations included: inadequate policies and procedures, books and records deficiencies, Form ADV deficiencies, advertising misstatements and misleading performance advertising.

D. FINRA Increasing Number of Regulation Best Interest Enforcement Actions.

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.

Bill St. Louis, Head of FINRA Enforcement, recently indicated that FINRA is increasing the number of enforcement actions related to Regulation Best Interest. Recent cases have involved Form CRS, excessive trading, complex products and variable annuities. FINRA also recently entered into its second settlement resulting from a “sweep” of social media influencers in customer acquisition practices.

E. Faegre Drinker DOL Fiduciary Rule Symposium – June 12th.

CEFLI Gold Affiliate Member Faegre Drinker will be conducting a one-day in-person DOL Fiduciary Rule Symposium in Washington, DC on June 12th. Information regarding the event may be accessed via [this link](#).

V. CEFLI Activities.

A. CEFLI’s 2024 Annual Conference.

Registration is open! CEFLI’s 2024 Annual Conference will take place September 22-24, 2024 at the JW Marriott Austin. Links to [general information](#), [the agenda](#) and the [registration page](#) are included here. We hope you can join us in Austin this fall!

B. CEFLI Compliance & Ethics Benchmarking Survey.

CEFLI issued its 2024 Compliance & Ethics Benchmarking Report. A link to a report summarizing the findings and two supplemental documents can be found on the [Benchmarking Surveys](#) page of CEFLI.org. Please use your CEFLI logon and password to access the Member content. CEFLI thanks the 53 Member Companies who completed this year’s Benchmarking Survey.

C. CEFLI’s May 15 - Joint Education Webinar: 2024 Regulatory Outlook for the Insurance Industry.

CEFLI’s May Educational Webinar took place yesterday. The event featured Craig Friedman, Michael Ruiz and David Sherwood of CEFLI Affiliate member Deloitte. The webinar addressed elements of Deloitte’s recently published *2024 Regulatory Outlook for the Insurance Industry* report. The discussion included such topics as artificial intelligence, protection gaps and an update on the DOL’s Fiduciary Rule. The webinar recording and presentation materials may be accessed from the Previous Webinars section toward the bottom of CEFLI’s [Webinar page](#) on CEFLI.org.

- ANNUAL CONFERENCE: [CEFLI’s Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI’s job board](#) at any time. Positions remain posted for 90 days.

D. CEFLI's June 18 - Joint Educational Webinar: The DOL Fiduciary Rule.

CEFLI will be conducting an Educational Webinar on the DOL Fiduciary Rule on Tuesday, June 18, 2024 at 1:00 PM ET/ 12:00 PM CT/ 11:00 AM MT/ 10:00 AM PT. The event will feature a leading, national authority on the DOL Fiduciary Rule, Fred Reish, Partner at CEFLI Affiliate Member organization Faegre Drinker. [Registration](#) is open and we hope you can join us!

NOTE: The first portion of the Joint Educational Webinar will feature a high-level overview of the Rule. The Webinar will primarily focus on top questions submitted by CEFLI Members *via* [this survey link](#). The survey will remain open until the close of business on Friday, June 7th.

E. Fraud and AML Networking Forum.

A meeting of CEFLI's Fraud & AML Networking Forum will take place on Tuesday, May 21st at 2:00 PM ET/ 1:00 PM CT/ Noon MT/ 11:00 AM PT. The Forum meets quarterly for 60-90 minutes to discuss agenda topics submitted by Forum Members. Individuals interested in joining the Forum may contact De Keimach at DeKeimach@CEFLI.org.

F. Advertising Review Networking Forum.

A meeting of CEFLI's Advertising Review Networking Forum took place on Tuesday, April 30th. The Forum meets quarterly for 60-90 minutes to discuss agenda topics submitted by Forum Members. The next meeting will take place on Tuesday, July 30th. Individuals interested in joining the Forum may contact Carla Strauch at CarlaStrauch@CEFLI.org.

VI. Next Meeting.

The next meeting of the CEFLI Compliance & Ethics Committee will take place on: Thursday, June 20, 2024 at 2:00 PM ET/ 1:00 PM CT/ 12:00 PM MT/ 11:00 AM PT.

You may register for the meeting using this link: [June Meeting Registration](#)

The remaining 2024 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, July 18 [July Meeting Registration](#)

- Thursday, August 15 [August Meeting Registration](#)
- Thursday, September 12 [September Meeting Registration](#)
- Thursday, October 17 [October Meeting Registration](#)
- Thursday, November 21 [November Meeting Registration](#)
- Thursday, December 19 [December Meeting Registration](#)

VII. Other Business.

No further business was brought, and the meeting was adjourned.

- ANNUAL CONFERENCE: [CEFLI's Annual Conference](#) will take place September 22-24, 2024 at the JW Marriott in Austin, TX.
- JOB BOARD: Member Companies may post vacant positions to [CEFLI's job board](#) at any time. Positions remain posted for 90 days.