

## **Agenda**

**2012 CEFLI Advisory Committee Meeting  
Tuesday, January 10, 2012  
10:00 AM-3:00 PM EST**

**Dial-in: 1 (877) 699-4804  
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|-------------|----------------------------------|--------------------------|
| <b>I.</b>   | <b>Welcome and Introduction.</b> | <b>Donald J. Walters</b> |
| <b>II.</b>  | <b>Antitrust Statement.</b>      | <b>Donald J. Walters</b> |
| <b>III.</b> | <b>Annuity Suitability.</b>      |                          |

Over the course of 2011, life insurers have been modifying their practices to comply with recent revisions to the NAIC Suitability in Annuity Transactions Model Regulation. Key elements of these recent revisions include training and continuing education requirements for producers, a secondary review of transactions and a confirmation of insurer responsibility for unsuitable transactions. While most states have adopted an earlier version of the Model Regulation, over 20 states have adopted the 2010 revisions to the NAIC Suitability in Annuity Transactions Model Regulation.

Insurers have expressed concerns regarding operational elements of the recent revisions to the Model Regulation. The ability to track completion of training and continuing education requirements poses unique challenges for state insurance regulators as well as insurers. Moreover, in many instances, insurers have to consider possible modifications to their existing systems of supervision and review to accommodate the heightened supervision requirements of the 2010 revisions to the Model Regulation.

Notwithstanding these enhancements to the 2006 version of the Model Regulation, concerns exist among regulators regarding unsuitable sales of annuities. California recently enacted legislation that included a provision that requires gathering information of a prospective annuity customer concerning their ownership of a reverse mortgage to address possible inappropriate uses of annuity products in conjunction with reverse mortgage transactions.

***The Committee will be asked to comment upon their observation of annuity suitability in the marketplace. Has there been a discernible decline in the number of unsuitable transactions in light of the 2010 revisions to the Model Regulation? What are the current trends in the marketplace? Are states planning to conduct examination activities to confirm compliance with the Model Regulation? Have producers been able to receive and have insurers been able to track the required training and continuing education requirements? Have insurers expressed concerns regarding their ability to comply with the 2010 revisions to the Model Regulation?***

#### **IV. Social Media.**

Over the past several years, CEFLI has been an industry leader in monitoring developments and providing solutions concerning compliance-related issues associated with social media use. CEFLI has conducted several regulator-only training sessions concerning social media and provided educational webinars to identify social media trends in the marketplace. Moreover, CEFLI has developed policy templates and guidance pertaining to the supervision and monitoring of social media use by insurers.

FINRA has issued several Regulatory Notices pertaining to social media use by broker-dealers. Following this guidance, the NAIC recently completed its White Paper entitled, "*Social Media Use in Insurance*." However, it remains uncertain as to how the findings of the NAIC White Paper will be used by regulators and whether existing state insurance laws and regulations may be adequate to address the challenges of social media use.

***The Committee will be asked to comment upon the key challenges pertaining to regulating social media use in the marketplace. The Committee also will be asked to discuss possible strategies for further collaborative review of these issues between regulators and life insurers.***

#### **V. Unclaimed Property.**

According to a recent CEFLI survey of insurers, significant compliance resources were devoted to issues associated with unclaimed property in 2011. These developments remain ongoing.

The New York Department of Financial Services issued a Section 308 letter that requires insurers to respond to a range of information requests to outline their practices with respect to the escheatment of unclaimed property.

The NAIC has engaged an outside vendor to examine several national life insurers to determine their practices with respect to the identification of potential

owners of unclaimed property. In addition, the NAIC has established a Task Force to explore possible strategies to address unclaimed property-related issues.

Also, insurers have been subject to review by various secretaries of state concerning their compliance with escheatment laws and regulations. Recently, Attorneys General in several states have announced their interest in exploring insurer practices with respect to unclaimed property-related issues.

***The Committee will be asked to comment upon these developments and to discuss the ethical considerations of these issues from a company as well as a regulatory perspective. The Committee also will be asked to discuss possible strategies to allow regulators and insurers to work collaboratively to develop appropriate solutions to address unclaimed property-related questions.***

#### **VI. Indexed Universal Life Insurance Products.**

In recent months, regulators have expressed concern regarding the manner in which indexed universal life insurance products are being sold to consumers. Some regulators have indicated that these products are being sold on the basis of illustrations that may project rates of return that may not be attainable in all market environments. Also, the complexity of the design of these products poses disclosure challenges for producers as well as consumers.

***The Committee will be asked to comment upon their observation of the sale of indexed universal life insurance products in the marketplace. The Committee will be asked to comment upon how these products are sold, whether valid concerns exist regarding the manner in which these products are sold and whether additional regulatory guidance may be warranted with respect to illustrations associated with the sale of these products and, if so, what additional steps may be appropriate.***

#### **VII. NAIC Market Analysis Survey Project.**

Kentucky Commissioner Sharon Clark, who chairs the NAIC Market Regulation and Consumer Affairs (D) Committee, has announced an initiative being undertaken by the NAIC to survey its member state insurance departments to determine the efficacy of market analysis as a means to regulate the marketplace.

This survey was reportedly initiated at the behest of insurers who expressed concerns regarding the increased number of data requests and examination activities since the implementation of a market analysis approach to regulation several years ago.

***The Committee will be asked to comment and provide any updated information concerning this initiative including whether they have received comments from insurers that indicate an increased number of data requests and examination activities. The Committee also will be asked to explore possible strategies for consideration by the NAIC regarding possible modifications to the market analysis approach to marketplace regulation.***

#### **VIII. SEC Whistleblower Report.**

In 2011, the SEC adopted new Whistleblower Rules authorized through the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act to encourage reporting of questionable activities directly to the SEC. Individuals who report questionable activities that lead to SEC enforcement actions may be eligible to receive rewards from 10-30% of any monetary sanctions imposed.

In light of the adoption of these new Whistleblower Rules, life insurers have been reviewing their existing reporting procedures to determine how they may encourage internal reporting and possible resolution of matters pertaining to questionable activities prior to reporting such incidents directly to the SEC.

Late last year, the SEC issued its Annual Report (the "Report") on the Dodd-Frank Whistleblower Program. Though it had only a limited number of months to review activity in light of the August 12, 2011 effective date of the new Whistleblower Rules, the Report identifies various categories of whistleblower allegations and associated data.

***The Committee will be asked to share their views concerning the public policy and ethical issues underlying the new Whistleblower Rules and steps insurers may consider to encourage internal reporting and resolution of questionable matters.***

#### **IX. Contemporary Compliance and Ethics Challenges.**

***The Committee will be asked to comment upon their observation of contemporary compliance and ethics challenges in the marketplace for life insurance and annuity products that may warrant further review by CEFLI's Compliance and Ethics Committee.***

#### **X. Other Business.**