DRAFT

Minutes
Meeting
of the
2014 CEFLI Advisory Committee
Wednesday, November 5, 2014

A meeting of the Advisory Committee (the "Committee") of The Compliance and Ethics Forum for Life Insurers ("CEFLI") was held on Wednesday, November 5, 2014 at 10:00 AM at the offices of Genworth Financial in Washington, DC.

The following individuals participated in the meeting in-person:

Larry Kosciulek (FINRA)

Ryan Wilson (AARP)

The following individuals participated in the meeting via conference call:

Gary Sanders (NAIFA)

Steve Kline (NAIFA)

Tim Mullen (NAIC)

The following representatives of CEFLI member companies and Affiliate Member organizations participated in the meeting in-person: William Dauksewicz (Liberty Life Assurance Co. of Boston).

The following representatives of CEFLI member companies and Affiliate Member organizations participated in the meeting via conference call: John Landers (CUNA

Mutual). Also participating in the meeting were Donald J. Walters, President and CEO of CEFLI and John N. Travagline, Chief Compliance & Operations Officer of CEFLI.

The meeting was called to order by Mr. Walters, who presided. Mr. Walters acted as Secretary of the meeting.

I. Welcome and Introduction.

Mr. Walters welcomed the Committee members and referred to CEFLI's antitrust statement to alert Committee members that an objection would be made to any discussion that might engender a potential violation of the antitrust laws.

II. Approval of Minutes - July 17, 2014 Meeting.

In reviewing the minutes of the July 17, 2014 meeting, a comment was offered to clarify that the sweep of various broker-dealer firms and investment advisers by FINRA and the SEC to determine the firms' and advisers' degree of preparedness for potential cybersecurity breaches was not conducted as a "joint sweep" but was conducted independently by each organization. It was agreed that the Minutes of the July 17, 2014 meeting would be modified accordingly.

On motion, duly made and seconded and unanimously carried, the Committee:

RESOLVED, that, the Minutes of the July 17, 2014 meeting of CEFLI's Advisory Committee are hereby approved.

III. 2014 Election Results - State Insurance Commissioners.

The Committee discussed the results of the 2014 elections and their potential impact upon possible changes to state insurance commissioners. It was acknowledged that 12 of the 50 state insurance commissioners serve in elected positions and 38 state insurance commissioners serve in appointed positions. Therefore, the outcome of the 2014 elections had the potential to impact several state insurance departments.

It was noted that a new insurance commissioner, Ken Selzer, was elected in Kansas. Due to changes in the party affiliation of newly elected Governors in 10 states, it was acknowledge that it is likely that they could be appointing new state insurance commissioners in 2015.

It also was noted that, due to changes in party control of Congress, the life insurance industry would need to continue to be diligent with respect to potential attacks on the tax-preferred status of the inside buildup and death benefit of life insurance policies over the months ahead.

IV. Financial Sector Assessment Program.

Every four years, the International Monetary Fund (IMF) conducts a Financial Sector Assessment which reviews the financial systems of selected countries around the world. The United States is one of those countries that has been Incorporated into the IMF Financial Sector Assessment Program. Representatives of the IMF recently visited the NAIC to conduct a review of state insurance regulatory requirements.

Mr. Mullen reported that the review conducted by the IMF is focused primarily on financial solvency. It is likely that the IMF will publish their Financial Sector Assessment Report in early 2015.

V. Oversight of Advertising and Sales Practices of Independent Marketing Organizations.

Several states including Kansas and Iowa recently issued Bulletins expressing concern regarding advertising produced by independent marketing organizations to promote the sale of life insurance and annuity products. The Kansas Bulletin reminds insurers of their supervision and oversight obligations with respect to advertising developed by independent marketing organizations that may be misleading. The Iowa Bulletin raised concerns regarding questionable advertising practices by independent marketing organizations to promote the sale of insurers' products; specifically, indexed annuity products.

The Committee agreed that any use of misleading advertising by independent marketing organizations would be inappropriate in the marketplace. The Committee also discussed the use of "generic" advertising by independent marketing organizations. To the extent that these "generic" advertisements are not misleading, they may be appropriate for marketing purposes. It also was suggested that many life insurance companies maintain policies and procedures that require any advertising developed by an independent marketing organization that identifies the specific characteristics of a company's product (i.e., it is not "generic") should be submitted for review by the life insurer prior to its use.

VI. Senior Sales.

A. Joint Report - SEC and FINRA.

The Committee discussed final plans for FINRA and the SEC to publish a report outlining "best practices" observed during a recent "joint sweep" concerning sales practices associated with sales to seniors.

The Committee confirmed that the Report is in its final stages within each organization and is likely to be published during 2015.

B. Diminished Capacity and Elder Abuse.

The SEC is working closely with FINRA and the Department of Health and Human Services to determine ways in which awareness can be raised concerning practices financial services organizations may wish to implement to address identified instances of diminished capacity and elder abuse among their clients.

It was acknowledged that the SEC and the Consumer Financial Protection Bureau (CFPB) are exploring ways to address these issues from a regulatory standpoint. It also was noted that there is substantial ambiguity with respect to state laws and general guidance offered regarding who to contact in the event that a financial services firm and/or its producers may suspect financial abuse.

The Committee recognized that several financial services firms are starting to develop compliance procedures to address perceived instances of diminished capacity and elder abuse. While it was noted that several large broker-dealers have begun to implement such compliance procedures, the distinctions between securities products and insurance products (in the form of individual policies/contracts with consumers) make development of applicable compliance procedures to address these issues more challenging for life insurance companies.

Several organizations including the ABA Committee on Law and Aging and the National Endowment for Financial Education are exploring additional ways to address these growing concerns.

VII. Social Media.

The NAIC published a white paper on the *Use of Social Media in Insurance* several years ago which, in large part, followed guidance issued by FINRA pertaining to social media use by broker-dealer firms. FINRA recently announced that it was conducting a retrospective review of several rules, including Communications with the Public. The Committee discussed the potential impact of this retrospective review on social media use.

The discussion confirmed that preliminary reports concerning FINRA's retrospective review of its Communications with the Public rule are anticipated to be published within the coming months. These reports will allow readers to determine whether the retrospective review of FINRA's rule pertaining to Communications with the Public may have any potential impact on previous FINRA guidance issued related to social media.

The Committee also acknowledged that social media use within the life insurance industry continues to evolve slowly. Several outstanding questions regarding supervision and storage issues continue to raise appropriate compliance concerns pertaining to social media use within the life insurance industry. Also, it was noted that the introduction of other technologies such as Skype into insurance product sales raises additional operational challenges and potential compliance concerns.

VIII. Indexed Universal Life Insurance Products.

Regulators have expressed concerns regarding the manner in which illustrations may be used to promote the sale of indexed universal life insurance products. The Committee acknowledged that these issues are under review through the Life and Health Actuarial Task Force at the NAIC. Efforts are underway to attempt to address these issues without having to amend the existing Illustration Model Regulation. One of the key challenges pertaining to this issue relates to the question of how a life insurer may illustrate performance of indexed universal life insurance products.

IX. Annuity Replacement Activities and Record-Keeping Requirements.

Life insurers are required to maintain records regarding their replacement activities pertaining to annuity products. The Committee discussed concerns related to a $3 million fine imposed by the Illinois State Securities Department for failure to properly maintain records documenting why customers were recommended to switch out of existing variable annuities and into new products.

The Committee noted that annuity replacement record-keeping requirements have not been a subject of heightened review during recent state insurance department market conduct activity.

It was acknowledged that the Illinois State Securities Department fine (noted above) was considered a technical violation due to inadequate record-keeping practices by the selling broker-dealer.

X. Cybersecurity.

The SEC and FINRA recently conducted "sweeps" of firms' cybersecurity practices to determine their strategies to address potential cybersecurity risks. The Committee acknowledged that cybersecurity concerns will grow in regulatory prominence in 2015 and over the months ahead.

The SEC reportedly plans to issue a White Paper to outline key findings from its "sweep" activity. The SEC White Paper will reportedly identify "best practices" for financial service organization to consider implementing as soon as possible.

It was acknowledged that, although cybersecurity is perceived to be primarily an information technology issue, compliance professionals will need to become more actively engaged in cybersecurity risk analysis.

XI. Annuity Suitability Compliance Issues.

A. Liquidity Analysis - Annuity Suitability.

The NAIC Suitability in Annuity Transactions Model Regulation contains provisions that require insurers to collect information pertaining to the "liquidity needs" and "liquid net worth" of annuity transactions. The Committee discussed whether state laws may place limits on the extent to which a customer may place monies into "non-liquid" products such as a deferred annuity.

The Committee's discussion suggested that several state securities departments may be exploring creating specific parameters concerning the extent to which a customer's liquid net worth may be placed into "non-liquid" products such as deferred annuities over the months ahead.

B. Tracking and State Compliance Reviews of Annuity Training and Insurer Product-Specific Training.

A question was presented to the Committee concerning the challenges life insurance companies face in attempting to comply with key provisions of the NAIC Suitability in Annuity Transactions Model Regulation which require life insurers to confirm that producers have undergone appropriate training to understand annuity products generally and to confirm that their producers understand the unique elements of specific products issued by a life insurance company.

Life insurance company representatives noted that several states do not provide online access to such information. Moreover, this type of information is not contained within the National Insurance Producer Registry (NIPR). Therefore, company strategies differ with respect to attaining compliance with these requirements.

This issue is further complicated by strategies companies implement to address the sale of annuity products in states that have not yet adopted the Model Regulation.

It was the consensus of the Committee that life insurance company compliance professionals could benefit from a central repository of information (either through the NAIC or NIPR) to obtain accurate information concerning the completion of applicable producer training requirements.

C. FINRA "Safe Harbor" Recognition During Market Conduct Exams.

The Committee discussed reports of recent state insurance Department examination activities that fail to recognize the application of the FINRA "safe harbor" provision within the NAIC Suitability in Annuity Transactions Model Regulation.

It was noted that the guidance found within the NAIC Market Regulation Handbook pertaining to market conduct examinations of annuity suitability practices suggests that examination activities should be focused on determining whether insurers have "appropriate policies and procedures in place" rather than conducting a transaction-by-transaction review to determine annuity suitability. However, it also was acknowledged that the NAIC Market Regulation Handbook serves solely as guidance for state insurance market conduct examiners and may or may not be adopted by all states.

XII. Unclaimed Property.

The Committee discussed recent developments pertaining to unclaimed property issues. It was noted that the Uniform Law Commission is reviewing potential amendments and modifications to the Uniform Unclaimed Property Act. It also was noted that the National Conference of Insurance Legislators (NCOIL) will be considering possible modifications to its Model Law at its upcoming National Meeting. Finally, it was noted that the NAIC is likely to approve a charge for its NAIC Life Insurance and Annuities (A) Committee to develop a Model Law pertaining to unclaimed property practices.

XIII. Fraud Awareness.

The Committee discussed recent issues associated with potential fraud in the financial services sector. AARP indicated that it has developed a "fraud fighters" campaign which encourages consumers to identify fraud when it occurs.

It also was reported that the FINRA Foundation in conjunction with Maryland Public Television has developed a series on behavioral finance and addresses how consumers make financial decisions (including the avoidance of fraudulent schemes).

Overall, the Committee acknowledged that cyber-fraud represents one of the most significant potential risks to all financial services firms.

XIV. 2015 Examination Priorities.

The Committee was asked to discuss potential 2015 examination priorities for regulatory authorities.

Issues identified included recidivist brokers, cybersecurity, senior investors, private placements, non-traded real estate investment trusts and the growing use of variable annuities by hedge funds.

XV. Other Business.

There being no further business to discuss, the meeting was adjourned.