



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Office of the Commissioner of Insurance Annuities Sales Supervision Advisory Committee

Minutes
Tuesday July 22, 2008
9:30 a.m. – 1:00 p.m.
125 South Webster Street
Room 227
Madison, WI 53707

Committee Members Present: Connie O'Connell, Parrett & O'Connell; Martha Kendler, Northwestern Mutual Life; Pattie Struck, Department of Financial Institutions; Carla Strauch, Thrivent Financial for Lutherans; John Wheeler, John Patrick Planning Group; Duwayne Mews, Financial Strategies; Scott Borchert, FINRA; John Hendrick, CWAG, Mary Jan Rosenak for Representative Frank Lasee, Wisconsin State Assembly

OCI Representatives Present: Deputy Commissioner Kim Shaul, Jennifer Stegall, Mike Honeck, Kevin Zwart, Kelli Banks

Others Present: Wade Wenger, AEGON; Julie Bloker, CUNA Mutual; Elizabeth Hartman, CUNA Mutual; Paul Blume, AIG; Kevin Techau, American Equity; Angela Hollan, Allianz; Rochelle LeTourneau, Ameriprise; Terry Tiedi, Aviva; John Gerni, ACLI; Fred McGarvey, Prudential; Kim Obrien, NAFA; Bill Toman, Quarles & Brady

I. Approval of the June 18, 2008 Minutes.
Deputy Commissioner Kim Shaul, Chair

Minutes were approved.

II. SEC proposed draft rule on Indexed Annuities.
Deputy Commissioner Kim Shaul, Chair

A proposed rule was issued by the SEC June 25, 2008 which eliminates the exemption under the securities act for certain types of annuities. The SEC is focused on indexed annuities and would like to regulate these as securities. Commissioner Dilweg has been working with the NAIC and we will be doing some outreach with the SEC. Right now the SEC is gathering information through a comment period ending September 10, 2008.

III. Update on NAIC Suitability in Annuity Sales Working Group.
Deputy Commissioner Kim Shaul, Chair

The NAIC Suitability of Annuity Sales Working Group of the Life insurance and Annuities (A) Committee held a conference call on July 21, 2008. There was discussion of the SEC Proposed Rule on Indexed Annuities and certain other insurance contracts. Carla Strauch, Insurance Compliance Manager of Thrivent presented a Thrivent Presentation on Annuity Suitability. Scott Borchert, FINRA presented a FINRA Presentation on Annuity Sales – Suitability and Supervision.

IV. Discussion of Draft Suitability Standards.
Deputy Commissioner Kim Shaul, Chair

There was an article in the Journal Sentinel about the work of this committee.

Summary of opening comments made by some Committee Members:

- The document presented seems different than what was discussed on the conference call.
- There is concern that these concepts are too prescriptive and too rigorous for all companies to follow. It was recommended that the list not be shared with NAIC at this time and that the best approach is enforcement of the existing model.

Kim explained the compilation of this document is a work in progress. The list includes comments from everyone on the committee, interested parties and internal staff. Every effort was made to stress these are just proposals and concepts and nothing is final.

Kim indicated the list is not in a form to present to the NAIC yet.

Additional Comments from Members:

- Companies should be responsible for educating agents on the products they are selling.
- This is an excellent first draft set of concepts and a very good start for us to start discussions. It will be challenging for those selling these products.
- We need uniform standards to apply to the sales of these products.
- Supervision should be in the company but there should be a balance with the regulators as well.
- The public perception has turned against the way these products are marketed.
- There is a conflict of interest issue raised if companies are left to be sole supervisory/regulators.
- The current model is principal based but it does not address training or suitability.

The group agreed to start discussion on the monitoring section of the document.

1. Requirement that a company monitors its system of supervision of sales and marketing activities and its policies and procedures. Require documentation showing that the company monitors whether supervisory responsibilities are fulfilled in accordance with company policies and procedures and applicable laws and regulations. Also require that a company modifies, as necessary, its supervisory procedures based on information from various sources, including information collected as part of the required periodic review of records.

It was suggested to look at this concept from the perspective of an independent agent and not 3rd party like a broker/dealer. Company refers to an insurance company issuing the product and not the field marketing organization. Under this concept broker/dealers would have to follow a different set of rules for every different company they represent. It was suggested to make a carve out for broker/dealers and 3rd parties. Make a distinction between a field market organization and a broker/dealer.

2. Require a company to demonstrate that policies and procedures have been communicated to captive producers and to appropriate company employees and made available to independent producers.

A comment that “be made available” is not considered monitoring. It was suggested to move this item to a training item.

3. Require a company to provide evidence that policies and procedures are consistently used.

A member commented that “provide evidence” is too vague. It is not clear what the regulator wants.

It was suggested that this item also be moved to training.

4. Require periodic Insurer review of all new sales (and replacement sales) submitted by producers to identify unsuitable sales.

5. Require periodic insurer review of each agent’s overall sales to identify trends, e.g. replacement activity, type of products sold, average age of consumers, complaints, etc.

Some committee members thought #4 & #5 were similar. It was suggested that “periodic review” be changed to “continuous review”. It was also suggested to remove the word “all” because smaller companies would not have this capability. It was suggested to replace “all” with “random sample” It was suggested companies should identify red flags. Discussion on defining what is monitoring and what is supervision. It was suggested to establish a percentage on how many sales a company needs to review.

Final decision – “Require an effective system to identify unusual sales trends and take corrective measures to address appropriate sales conduct.” Also, drop number 10, 11 and 12.

Lunch Break

Discussion on when to schedule next meeting. It was decided August 26, 2008 at a location to be determined. (Note – the meeting has since been changed to August 25, 2008.)

6. Require that several criteria, including but not limited to suitability forms, consumer inquiries, post sale consumer interviews, replacement reports, complaint analysis and internal audits, be considered by insurers in the development of systems to review agent sales.

10. Require insurers to maintain documentation showing that the results of complaint trend analysis is communicated to captive producers, appropriate company employees and made available to independent producers.

7. Require implementation of a monitoring system to isolate and review questionable annuity sales. The Working Group should consider information forthcoming from IMSA relating to best practices for a “red flag” system.

8. Requirement that a “suitability expert” or staff is dedicated to monitoring sales for actions that appear to have led to unsuitable sales.

It was suggested that #7 and #8 be moved to the supervisory section of the document.

11. Require establishment of policies and procedures designed to implement corrective measures to address inappropriate sales and conduct.

A committee member commented that #11 is the same as #5.

9. Require that Board of Directors annually review reports related to suitability in annuity sales.

There was no consensus reached on this piece.

Training

Members representing the insurance industry seemed to agree on general annuity training but not specific product training.

There was a suggestion to change the word “presence” to “participation” in section 1.1 under training.

There was a suggestion to have some sort of grandfather clause for current agents.

It was desirable to have the training requirements the same across all states.

It was suggested that training must be completed before being appointed and selling annuity products.

A comment was made that making training requirements strict will restrict companies from selling a variety of different products. It would be too complicated and too time consuming and companies will choose not to participate in the business of selling these products.

Most complaints come from individuals whose agents do not understand the products they are selling.

It was suggested that #1 read "Insurers to require comprehensive and effective training on each new annuity product and prohibit solicitation by the producer until such training is completed."

Mike Honeck stressed that specific product knowledge is very important. Agents often fail to describe how certain provisions in a policy works because they do not understand. It should not be assumed they understand. Mandatory product training is necessary.

It was commented that disclosures should be used to highlight specific provisions but not used instead of training.

Specific product training is not required for different lines of insurance so it should not be required for annuity sales.

Kim indicated that there seems to be consensus on a basic training requirement. No consensus on requiring a company to provide specific product training prior to sale of any new products..

V. Next Meeting

Tuesday August 26, 2008

(Note: - the meeting has since been changed to Monday, August 25, 2008.)