Regulatory Roadmap

Strategies for Staying Out of Trouble

September 2009

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William E. Watson III, RFC, President and CEO,
Turtle Creek Financial, Dallas, Texas

"**Today's compliance environment** is much more difficult than it used to be. I've always made sure that the products I recommended suited my clients' needs. But that's not good enough anymore: Regulators and plaintiffs' attorneys are watching to make sure I dot all the 'i's' and cross all the 't's.'

"That means compliance can sometimes feel like 'sales prevention,' but it's really about staying out of trouble. I've come to see Aviva's compliance department as a partner that helps makes sure my branding, image, marketing and business practices can stand up to today's stiffer regulations."

PENALTY BOX

Penalty: $225,000 in Fines and Suspended Licenses

Compliance Violation: Using Misleading Seminar and Sales Materials

- A team of three agents used misleading sales materials during seminars and presentations to investors. Based on exaggerated performance claims about investment and retirement products – including annuities – investors cashed out their pensions and 401(k) accounts early.
- The agents failed to obtain approval for the presentations and sales materials.
- Their materials:
  - Used exaggerated and unwarranted projections of future earnings without fully explaining the risks involved.
  - Failed to adequately disclose that the recommended annuities and other investments exposed investors to greater market risk than retaining their fixed annuity pensions.
  - Did not disclose fees.
  - Failed to explain that the expected annual net returns exceeded the historical average return of the Standard & Poor's 500 Index over 70 years.
  - Did not disclose that the recommended annuities could decline in value enough to reduce the customer's principal.
  - Overstated the agents' credentials and experience.

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Rule 151A: Dead or Alive?

Is Rule 151A dead or alive? That's a hard question to answer.

As you've no doubt heard, the U.S. Court of Appeals handed down its decision on Rule 151A in late July. On the one hand, the court determined that the SEC's thought process for Rule 151A was reasonable. On the other hand, the court found that the SEC's analysis to support the rule was inadequate. The court sent Rule 151A back to the SEC for further study of the rule's impact on competition and whether existing state regulations are sufficient to protect investors.

So Rule 151A is in limbo right now. But it will surely come alive when the SEC indicates its next step. For the moment, you can keep selling fixed indexed annuities to suitable customers – while Aviva keeps a close watch on developments.

Aviva's Perspective

Aviva has been actively working with the Coalition of Indexed Annuity Carriers to oppose Rule 151A since it was initially proposed. We continue to believe that fixed indexed annuities are insurance products, that they are most effectively governed by state insurance regulators, and that fixed indexed annuities should not be subject to SEC regulation.

However, Aviva has taken a "be-prepared" approach all along. Our product development team has been working to update our portfolio of traditional annuities to ensure that fixed indexed annuities and traditional annuities continue to be available to producers and customers – regardless of whether Rule 151A becomes law.

Now What?

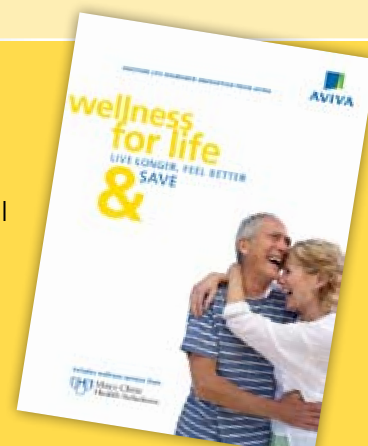
The final outcome of the court's decision is unclear. Rule 151A was remanded rather than overruled, so it is still set to become law in early 2011. The SEC has a considerable amount of work to do to correct the defects in its supporting analysis. However, no one knows whether the SEC will do that analysis or how long it might take.

The SEC might conclude that Rule 151A is no longer a pressing priority and decide to abandon it. Or it might decide to prepare and issue an updated analysis of the rule's impact on competition, efficiency and capital formation. If so, this updated analysis might also be subject to judicial review.

Is Rule 151A dead or alive? No one knows for sure. Aviva will monitor developments and keep you informed.

AVIVA UPDATE

Wellness for Life Rider Saves Customers Even More



Aviva recently declared its first-ever additional discount for Wellness for Life rider customers.

Customers who bought their riders at least two years ago and who have a routine physical once every two years will save half a percent on their insurance rates – up from the guaranteed minimum of .25%.

Customers who also maintain their weight within a range established at underwriting will save 1% on their rates – up from the guaranteed minimum of .50%.

These discounts actually apply to the stated percentage times the current policy year. In other words, the rate discounts in the third policy year will be 1.50% or 3%, respectively. In the fourth policy year, they will increase to 2% or 4%, assuming the insured continues to meet the rider's requirements.

Plus, all customers who buy Wellness for Life receive extra perks from Mayo Clinic Health Solutions. So now is a great time to remind your customers that Wellness for Life can be a great deal – physically and financially!

Wellness for Life rider form numbers: 2WFLAJ07-2 and 3WFLAJ07-2. Riders are subject to state availability, certain limitations and may require additional premiums unless otherwise specified. Wellness benefits not available in Oregon or Tennessee.

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SHIFTING GROUND

NAIC Eyes New Model Suitability Law

The Regulatory Roadmap recently discussed states' growing emphasis on suitability – that is, whether a particular annuity product fits a customer's individual needs. The National Association of Insurance Commissioners (NAIC) addressed this issue when it released the Model Regulation for Senior Annuity Sales, but several state regulators are advocating for reform of all suitability regulations.

At this point, the NAIC is convening workgroups to study if and how its model suitability law should be strengthened.

Some state insurance commissioners are calling for agents to collect more customer information and demonstrate greater product knowledge; others believe agents should consider a customer's entire financial picture before recommending a specific annuity product.

Aviva is taking an active role in NAIC's workgroups. We're bringing the agent and carrier perspective to the table, and helping ensure that any changes to the model law are both balanced and practical.

The Heat is On

It's not certain that NAIC will issue a new model suitability law this year. Even if it doesn't, there are other ways to ratchet up the heat on suitability. For example, NAIC could provide what's known as "interpretative guidance," which might encourage state departments of insurance to revise their suitability regulations or change their approach to enforcing existing laws.

In the meantime, states are taking suitability enforcement very seriously. Wisconsin is aggressively investigating individual agents for potential violations based on sales records. Florida has pursued criminal actions against agents who made unsuitable sales.

Aviva's Philosophy

In this climate, being extra careful about suitability is smart business. Start with a refresher on Aviva's suitability guidelines (see "Suitability Guide for Agents" on the agent portal).

Aviva requires that "… any recommendation for the purchase or exchange of an annuity product must be made on the basis of reasonable grounds to believe the recommendation is suitable for the customer."

The guidelines explain regulatory requirements and provide tips to help agents exercise good judgment in their annuity product recommendations. The guidelines also offer suggestions for making suitable replacement sales.

The Suitability Worksheet

You're required to complete Aviva's "Customer Identification and Suitability Confirmation Worksheet" for every annuity sale and/or replacement.

This detailed form helps you gather information about a client's goals and financial situation so you can make good recommendations. The Worksheet can also help document your recommendation in case questions arise later.

Aviva will continue to participate in NAIC workgroups on suitability and keep you informed. Watch Aviva agent portal and *The Regulatory Roadmap* for updates.

"States are taking suitability enforcement very seriously."

Texas: New Continuing Education Requirements

The Texas legislature recently passed a bill requiring agents to complete at least four hours of annuities-related training before soliciting customers. The new training requirements will be managed and monitored by the Texas DOI. It hasn't yet issued specific continuing education guidelines but anticipates doing so by year end.

Agents will need to complete their four hours of training by April 1, 2010. Existing approved continuing education courses are expected to qualify. Watch the agent portal for more information or contact **regulatory.roadmap@avivausa.com**.

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RISKY BUSINESS

More "Dangerous Words"

"Risk-free." "Contributions." "Deposits." "Vanishing Premiums." Do these words sound threatening? Probably not – until a regulator spots them in your ads and marketing materials. Or until a customer gets confused and files a complaint.

In compliance-speak, each of these could be "dangerous words." In the wrong context, they can be inaccurate or misleading enough to confuse customers and attract regulator attention.

Agents who consistently use "risk-free" when talking about annuities or "contributions," "deposits" or "vanishing premiums" when discussing life insurance could be courting unnecessary trouble. Disclosure language can help reduce risks, but there are better, safer alternatives.

DANGEROUS WORDS	WHY?	BETTER CHOICES
Risk-free Annuities	**Wrong:** There's a risk customers could earn more on a different investment. **Misleading:** Fees associated with withdrawals could reduce principal.	- No downside market risk
Contributions or Deposits	**Inaccurate:** "Contribution" implies a voluntary payment when a life policy may have ongoing premium requirements. "Deposit" suggests liquid funds like those in a checking account. **Misleading:** Customers are buying a product, not making a charitable contribution or depositing funds in an account.	- Premium
Vanishing Premiums	**Misleading:** Suggests that policy premiums actually disappear after a certain number of years. They don't. Even products with secondary guarantees might require additional premiums if the owner takes certain actions, such as taking a loan on the policy. **Incorrect:** If market returns are lower than projected, the policy may not generate enough to cover premiums after the initial timeframe. **Promissory:** Sounds like a guarantee of large enough returns to cover the premium.	- Pay premiums for X years, assuming projected, non-guaranteed values cover additional premium costs and expenses.

How can you make sure you're not using dangerous words? Always submit your marketing materials and ads to Aviva for review. We'll look for potential troublemakers and suggest better alternatives.

Contact the Advertising team at 785.270.5516 or adreview@avivausa.com for more information.

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DUCK & COVER

Protect Customer Data and Your Business

An agent is staring at a letter he doesn't want to sign. It informs customers that their social security numbers and private health and financial information may have been lost.

The agent must send the letter, but he knows it will damage relationships and his reputation. He wonders how this happened. Maybe he tossed meeting notes into the garbage or didn't encrypt the spreadsheets on his laptop. But it's not as if he sold customer information or left it laying around.

Could this be you? Let's hope not.
Protecting customers' private, non-public information is an important part of your job, state law and your Aviva contract. Further, customers trust you to safeguard their sensitive information. Failing to do so could seriously damage their trust in you – and your business.

Protecting customer information falls into two main categories: 1) Laws and regulations that govern how non-public, private customer information can be shared, and 2) Procedures that prevent the loss of non-public, personal customer information.

How can you protect client information? First, see "An Agent's Guide to Privacy" on the agent portal. Second, read on.

What is "Non-Public Personal Information?"

You're required to keep "non-public personal information" confidential. What does that cover? You may be surprised. To start, non-public personal information includes customers' social security numbers and financial and medical information.

But it also includes the type of policy purchased, its value and policy number. Non-public personal information could even include a customer's unlisted phone number.

"Customers trust you to protect their sensitive information. Failing to do so could seriously damage their trust in you – and your business."

Securing Customer Data

Common sense can go a long way toward protecting sensitive customer information. For example, only employees with a legitimate "need to know" should have access to it. Think about how your office works and develop clear procedures, which should include:

- Not using social security numbers as identifiers.
- Destroying paper and electronic records that include non-public, private information – handwritten meeting notes, CDs and so on.
- Using passwords on your computer, keeping them confidential and changing them frequently.
- Locking the screen on your computer when you step away.
- Making sure any laptop that holds customer files is locked and password protected, and that the files are encrypted.

Don't Assume

Most breaches of data security result from a lack of planning or carelessness. Don't assume that customers' non-public personal information is protected. Don't assume no one will look at the information or use it inappropriately.

Data and identity theft is a growing problem. Protecting customers' non-public private information is a key strategy for protecting valuable relationships, your reputation – and the business you've worked so hard to build.

If non-public personal information is lost or may have been stolen, immediately contact Christine Williams in Aviva's Compliance Department at 515-241-3168 or christine.williams@avivausa.com.

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ON YOUR SIDE

Advertising Review Protects You

Advertising can be a great way to reach regulators, who frequently scan newspapers for ads that violate state guidelines.

Advertising can be a great way to reach prospects. It can also be a great way to reach regulators, who frequently scan newspapers for ads that violate state guidelines.

Who has time to keep up with every detail of your state's advertising requirements? Aviva's Advertising team! Officially part of Aviva's Marketing Communications department, the team offers agents in-depth knowledge of state advertising requirements and Aviva products, as well as editing expertise.

Equally important, the Advertising team's focus on sales and marketing means it can often improve an ad's appeal and effectiveness while also making the ad compliant.

"Agents aren't compliance experts, so they can unintentionally develop ads that grab regulator attention for all the wrong reasons," said Heidi Shriver, leader of Aviva's Advertising team.

"Once agents submit ads to us – which is easy to do on the agent portal – the Advertising team provides a quick response with clear suggestions about how an agent can avoid compliance trouble and still convey a compelling message," explained Shriver.

"Our emphasis on sales, products and state regulations mean we can revise an ad to make it more 'safe' without damaging the sales message. And because Advertising works so closely with the Marketing and Sales team, we often improve an ad's appeal and effectiveness."

What can the Advertising Team do for you? Let's look at an example.

ON YOUR SIDE

"Before" Advertising review

At first glance, the following ad might seem fine. But it raises numerous compliance concerns.

7.2% GUARANTEED

- Over-emphasizing the return can be confusing when there are so many details that apply to the rate.
- The return shouldn't be the ad's main point.
- The guarantee is only available when customers buy an Income Edge rider for an additional fee.
- There are limitations on the guarantee.
- This return is only available for lifetime income purposes and never as a lump sum withdrawal.

• Conservative & Safe

- Although these words may apply, they are relative terms that need more explanation.

• Market Gains with no risk

- The Income Edge Rider doesn't depend on market performance.

• Principal & Gains always protected

- A customer who requests an early withdrawal will face charges that reduce principal of the underlying annuity.
- Early withdrawals will lower and could otherwise change the rider's guarantees.

Ideal for IRA/401K Rollovers

- This product may not be ideal for everyone.

Insurance related products.

Past performance is no guarantee results.

- Past performance and future results are irrelevant. The 7.2% is guaranteed by the rider.
- Disclosure language is always required, even in a small newspaper ad.

Please Call for Details

- Doesn't include any required disclaimers.
- Need to clarify that callers will be contacting a licensed insurance agent about insurance products.

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"After" Advertising review

Submit *Your* Ads

Aviva's Ad Review process is an easy, quick way to protect yourself from running ads that can create unnecessary headaches.

But there are other reasons to submit your ads for advance review. To start, your contract with Aviva requires you to do so.

Equally important, it's smart business.

Regulators are actively looking for agents whose ads cross the lines. Aviva's Advertising team can help make sure you're not one of them.

Email **adreview@avivausa.com** to learn more.

COMPLIANCE Q&A

Lawsuits, Proposed Regulatory Overhaul & Protected Assets

Q. What should I do if I'm served with a lawsuit?

One day, you find out that you're being sued. You're shocked and worried. What next?

Chances are, you'll never have this experience. If you do, it's important to make the right moves – quickly. Most courts will require you to appear and respond within just a few weeks.

1. Call your attorney immediately. Be sure to ask whether he or she should represent you.
2. Call your E&O carrier. Your carrier may want to provide an attorney; however, many states let you select your own at the carrier's expense.
3. Notify Aviva. If Aviva is named in the lawsuit, let us know immediately so we can begin planning next steps.

Exactly what happens next and when depends on the jurisdiction. Your lawyer will guide you through the process.

Q. How will the proposed overhaul of financial regulation affect me?

Two elements of this sweeping legislation are likely to affect the insurance industry: creating an Office of National Insurance and a Consumer Financial Product Agency.

Charged with developing a "modern framework" for insurance, the Office of National Insurance would, among other things, monitor the industry and gather information to identify emerging problems. The legislation doesn't propose national licensing requirements or a federal charter for insurance companies – those responsibilities remain with the states.

The Consumer Financial Product Agency (CFPA) would protect buyers of financial services and regulate the institutions that provide these services.

The legislation doesn't specifically mention life insurance right now. But in a late June press conference, President Obama mentioned annuities as a product that would be regulated by the CFPA.

Some degree of financial services reform is very likely. Whether these elements of the legislation are passed and how they're implemented will determine their impact on the industry and agents. It's still too early to tell.

Stay tuned to Aviva's agent portal and The Regulatory Roadmap for updates.

Q. Do insurance products qualify as protected assets?

Most states prevent creditors from seizing certain assets, such as a primary residence (except when a consumer defaults on a mortgage) or personal effects. These "protected assets" usually include a life insurance policy's cash value and annuities.

The amount varies widely by state. California currently protects less than $20,000 of some life insurance value for married couples. Yet statutory protection in Texas and Florida is unlimited.

Talking to clients about asset protection can be tricky. It's easy to be wrong, misleading or stray into unauthorized practice of law. First, find out the law in your state so you can answer questions correctly.

Second, don't risk misleading customers by promising them a certain level of asset protection. Phrases such as "may be protected" or "might be exempted" are much better, because there are situations in which a customer won't receive the full exemption – or any exemption at all – regardless of their state's protection provisions.

Last, many asset protection sales concepts are complex, as are the needs of customers who make asset protection a top priority. In these cases, life insurance is part of a multi-tier plan that usually includes trusts and other vehicles. So it's important to recommend that customers consult an attorney. Handling it yourself could open you to charges of unauthorized practice of law.

What are your compliance questions? Send them to regulatoryroadmap@avivausa.com.

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Who to Call

Every question.	**Your Aviva regional sales manager.**
Is my advertising acceptable?	**Advertising Review** 785/354-0648 adreview@avivausa.com
Who can help me with a customer complaint?	**Chad Batterson** 515/242-4616 chad.batterson@avivausa.com
Does Aviva need more information to complete the suitability review?	**Sarah Mylnek** 785/276-3542 sarah.mylnek@avivausa.com
Life insurance sales questions.	**Tony Lengeling** 515/242-4556 tony.lengeling@avivausa.com
Annuity policy sales questions.	**Chris Conroy** 515/447-4942 chris.conroy@avivausa.com
Who can troubleshoot new business questions?	Always call new business first, otherwise: **Blaine Doerrfeld** 515/242-2376 blaine.doerrfeld@avivausa.com
What titles or designations can I use?	**Ryan Honkomp** 515/241-3154 ryan.honkomp@avivausa.com

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