

BDWEEK

Regulatory news and analysis for the industry

Issue Date: May 26, 2008

Logout

Home

Search Articles

Topical Index

Print Issues

Print Current Issue

PDF Issues/Articles

See what CCOs are talking about...

Enroll in Online Diagnostic Forum

Conferences

Subscribe Online

Privacy Policy

Contact Us

Change Password

Special supervision is a big risk, compliance pros caution

Tell supervisors who want to put a problematic rep on special, heightened supervision, that doing so means the supervisor is vouching for that person, and if problems with that rep erupt, the supervisor could lose his or her license, compliance pros suggested at a recent conference.

"They're vouching for this person, saying, 'I believe in him or her. I will go to bat' [for that person], and that is a huge responsibility," said Andrea Golls, director of field and sales compliance with Thrivent Financial for Lutherans, speaking at the recent NRS Spring Compliance conference. Golls said when she tells supervisors at her firm the risk they take when putting someone on special supervision as opposed to terminating the rep, the supervisors typically decide to fire the person.

Golls said she personally doesn't support giving reps the special supervision option. Similar reluctance was voiced by the other speaker, John McGovern, senior vice president and chief compliance officer of IFMG Securities, Inc., a Sun Life Company, and a former examiner in NASD's New York District office.

McGovern said the only times he has allowed someone to stay on under heightened supervision are when: a) McGovern has just joined the firm, done his own quality assurance regimen, and discovered people who shouldn't have been hired in the first place; and b) when the firm applies some type of new surveillance system and discovers problems that were previously unknown.

"I have become so paranoid that in those few cases, I will take those items, I will make a matrix, I will assign it to a surveillance analyst," McGovern said. He then puts the item on his calendar to ensure the surveillance analyst stays on top of the case, he said.

Despite their own hesitancy to give reps this break, Golls said the decision should be a "gut" check for those who want to consider that option. If your gut tells you the rep merely made some errors in judgment, maybe had received insufficient training, and if you think your firm can put a program in place to correct the behavior, perhaps you can justify your decision to regulators, Golls continued.

"For me, in all my years dealing with regulators and dealing with these types of issues, I think the biggest part of the battle is really believing what you're doing," Golls said.

Stick to the plan

If your firm puts a rep on special supervision, it's essential that the tasks detailed in the plan get accomplished, and on schedule, both said.

"Unless this person is so egregious that they should have been terminated without cause, they [regulator] will quickly accept your reason for putting them on special supervision, but then they'll look at your plan of special supervision to see if it's substantive enough, and if it is and it says you're going to do 20 things, they will test to

10.1

see if those 20 things are done," McGovern said.

If you were supposed to conduct a certain number of meetings, for instance, regulators will look for proof that all those meetings were held.

"If they were supposed to take three more continuing education modules in the first three months after signing this letter, did they? And God forbid that they took the three, in four months Then you've violated your plan of special supervision. So that's where they're really stress-testing it to make sure you have complied," McGovern said.

One session attendee said his firm had placed three individuals on increased supervision NASD's suggestion two years ago, and that at the end of last year, SEC examiners came and drilled down into the records to determine whether the plan was being followed. The SEC left and FINRA came in and drilled down some more on same individuals. The only way the firm could save itself was to terminate the people because the firm was at risk, that attendee said.

McGovern also mentioned the need to keep an eye on data related to reps who need closer-than-normal supervision, but who don't need special supervision yet. Cross tabulate data to identify those reps by business and by activity. That way, you can tell, for instance, those reps who do a high amount of variable annuities business and who also have higher-than-usual 1035 exchanges, who may frequently be the last to undergo annual compliance training, and who have had other issues that indicate they need to be watched, McGovern said.

How long on special supervision?

Golis said those on special supervision plans should stay on those plans at least a year. Some organizations allow six months, but Golis insisted that's not long enough.

"In my mind, that's worthless. You don't have nearly enough time to demonstrate whether someone has changed their behavior," Golis said. At the end of a year, the person's supervisors need to sit down and look at progress that has been made during the course of the year, Golis said.

[Categories](#) | [Supervision](#) | [Financial Industry Regulatory Authority \(FINRA\)](#)

[\[print article\]](#)

© 2008 UCG. All rights reserved.
Do not duplicate or redistribute in any form.
BD Week is available for internal use only by authorized users.

10.2



Northwestern Mutual

720 East Wisconsin Avenue
Milwaukee, WI 53202

SUPERVISORY MEMO

REPRESENTATIVE'S NAME
R. Brian Fechtel

AGENT NUMBER
57178

- (Check one): Registered with NMIS "Associated person" of NMIS No relationship with NMIS
- (Check all that apply): Non-Variable Insurance Products – Life, DI, LTC, Fixed Annuity Variable Product – VLA, VA
 Mutual Funds Securities – Stocks, Bonds Advisory Product Not Product Specific

1. Summary of concerns noted: (Check one)

- Type 1 (Copy to Managing Partner) Type 2 (Signed by Managing Partner and copy to Home Office) Type 3 (Signed by Managing Partner, notify Home Office and copy to Home Office)

Representative included private, confidential identifying client information in correspondence beyond what was necessary for the business need.

2. Description of corrective actions taken: Include documentation of contact with the home office. (**Important:** Notify the Market Conduct division **immediately** if disciplinary action involving special supervision, suspension, termination, withholding of commissions or imposition of fines greater than the recommended range is being considered.)
Matter to be addressed in person by RVP in face to face meeting with FR at Network Office. Written instructional letter will be given to FR at face to face meeting. FR is on a special supervision plan and this policy violation will also be addressed with the FR in conjunction with that plan.

3. Follow-up plans (Complete if applicable):

4. Follow-up results (Complete if applicable):

5. Signatures (Required if Type 2 or 3)

Mark A Bishop RVP
MANAGING PARTNER

06/10/2008
DATE (MM/DD/YYYY)

MANAGING DIRECTOR (If Applicable)

DATE (MM/DD/YYYY)

6. Required reporting to the Market Conduct division of the Compliance/Best Practices department:

- a. Send the Supervisory Memo and related documentation for Type 2 and Type 3 concerns to the Market Conduct division (Room E4L, Phone 1-866-571-7222, #5, FAX 414-665-3547). (For Type 2 concerns, send **after** corrective actions have been taken.)
- b. Notify the Market Conduct division **immediately** by phone, FAX or e-mail if a disciplinary action listed in #2 above is being considered **or** if a Type 3 concern has been discovered.

Home Office Use Only

Reviewed by: _____ Date: _____ (MM/DD/YYYY) Acknowledged by: _____ Date: _____ (MM/DD/YYYY)



Northwestern Mutual

June 10, 2008

Hand-Delivered

Mr. R. Brian Fechtel
Northwestern Mutual Life
316 Main St. Ste 2
Poughkeepsie, NY 12601-3123

Mark S. Bishop, CPA
Regional Vice President
Agency Department

720 East Wisconsin Avenue
Milwaukee, WI 53202-4797
414 665 7085 office
414 625 4723 fax
markbishop@northwesternmutual.com

RE: Field Information Manuel ("FIM") 4.2.16.9.1 Communication about Personal Customer Information Limited to Business Needs Only

Dear Brian:

In your correspondence of May 21, 2008, addressed to Edward J. Zore, President & CEO, and the Trustees of Northwestern Mutual, you disclosed personal customer information that was not required or necessary to the content of the letter.

The Company policy on this matter is as follows:

FIM 4.2.16.9.1 Communication About Personal Customer Information Limited to Business Needs Only

When requesting, using or disclosing Personal Customer Information, Financial Representatives and their staff must not request, access, use or disclose more information than they need to accomplish the business purpose. In addition, care must be taken to protect the privacy of the customer. Discretion and good judgment should be used when Personal Customer Information is communicated through any vehicle, including LINKgrams, telephone, voice mail, facsimile, or e-mail. Any electronic message you send out could be read by many people - including competitors, regulators or news reporters.

Casual or non-business communication about Personal Customer Information is not permitted. Personal Customer Information should not be shared with other Northwestern Mutual employees, contract employees, or field personnel unless they need the information to do their jobs. Personal Customer Information should never be shared casually during or after work. Third parties should not be permitted access to, or be provided with, Personal Customer Information unless there is a legitimate business purpose and the access or disclosure is legally permitted and in accordance with Company policy.

Brian, as you know, you are under a Special Supervision Plan. Your violation of this policy is of serious concern to me as I continue to supervise you. I trust you understand the seriousness of this matter and will take immediate steps to comply with this policy.

10.4

Any future violation of this or any other policy may result in further disciplinary action, including termination of your registration with Northwestern Mutual Investment Services, LLC, and termination of your agent's contract.

Please contact me with any questions on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Mark S. Bishop". The signature is written in black ink and is positioned to the right of the typed name.

Mark S. Bishop