
FINRA fines MetLife \$20 million for VA replacement misconduct

By Editorial Staff Thu, May 5, 2016

'MSI represented to customers that their existing VA was more expensive than the recommended VA, when in fact, the existing VA was less expensive,' FINRA said.

MetLife Securities, Inc. (MSI) has been fined \$20 million by the Financial Industry Regulatory Authority and ordered to pay \$5 million to customers for "making negligent material misrepresentations and omissions on variable annuity (VA) replacement applications for tens of thousands of customers," a May 3 FINRA release said.

"Each misrepresentation and omission made the replacement appear more beneficial to the customer, even though the recommended VAs were typically more expensive than customers' existing VAs," a FINRA release said. The following statements were issued by FINRA.

MSI's VA replacement business constituted a substantial portion of its business, generating at least \$152 million in gross dealer commission for the firm over a six-year period.

In settling this matter, MSI neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

From 2009 through 2014, FINRA said, MSI "misrepresented or omitted at least one material fact relating to the costs and guarantees of customers' existing VA contracts in 72% of the 35,500 VA replacement applications the firm approved, based on a sample of randomly selected transactions."

For example:

- MSI represented to customers that their existing VA was more expensive than the recommended VA, when in fact, the existing VA was less expensive;
- MSI failed to disclose to customers that the proposed VA replacement would reduce or eliminate important features in their existing VA, such as accrued death benefits, guaranteed income benefits, and a guaranteed fixed interest account rider;
- MSI understated the value of customers' existing death benefits in disclosures mandated by Reg. 60.

Replacing one VA with another involves a comparison of the complex features of each security. Accordingly, VA replacements are subject to regulatory requirements to ensure a firm and its registered representatives compare costs and guarantees that are complete and

accurate. For investors in New York, a firm also must adhere to the disclosure requirements set forth in Regulation 60 (Reg. 60).

FINRA also found that MSI failed to ensure that its registered representatives obtained and assessed accurate information concerning the recommended VA replacements, and did not adequately train its registered representatives to compare the relative costs and guarantees involved in replacing one VA with another.

MSI's principals did not consider the relative costs and guarantees of the proposed transactions. The firm's principals ultimately approved 99.79% of VA replacement applications submitted to them for review, even though nearly three quarters of those applications contained materially inaccurate information.

FINRA further found that MSI failed to supervise sales of the GMIB rider, the firm's bestselling feature for its VAs. The rider was marketed to customers (many of whom were already holding MetLife annuities) as a means of providing a guaranteed future income stream.

The GMIB rider is complex and expensive—annual fees during the relevant period ranged from 1% to 1.5% of the VA's notional income base value. A frequently cited reason for MSI's recommendation of VA replacements was to allow a customer to purchase the GMIB rider on the new VA contract. Nevertheless, MSI failed to provide registered representatives and principals with reasonable guidance or training about the cost and features of the rider.

In addition, FINRA found that since at least 2009, firm customers have received misleading quarterly account statements that understate the total charges and fees incurred on certain VA contracts.

Typically, the quarterly account statements misrepresented that the total fees and charges were \$0.00 when, in fact, the customer has paid a substantial amount in fees and charges.