Legal and Regulatory Update
Tuesday, November 12, 2019
3:30 p.m. – 4:30 p.m.

Panelists explore the evolving regulatory structure surrounding senior investor protections and the challenges facing regulators and financial services professionals when developing an effective, efficient and integrated protection framework.

**Moderator:** Sarah Gill
Director State Relations, Office of Government Affairs
FINRA Office of Government Affairs

**Speakers:**
Joseph Brady
Executive Director
North American Securities Administrators Association (NASAA)

Lourdes Gonzalez
Assistant Chief Counsel - Sales Practice, Division of Trading and Markets
U.S. Securities and Exchange Commission (SEC)

Erin Linehan
Associate General Counsel – Compliance
Raymond James Financial, Inc.

James Wrona
Vice President and Associate General Counsel, Regulatory
FINRA Office of General Counsel
Legal and Regulatory Update Panelist Bios:

Moderator:

Sarah Gill is Director of State Relations in the Office of Government Affairs at FINRA. In this role, she addresses policy matters and coordinates with the North American Securities Administrators Association and state securities regulators. Before joining FINRA in 2018, Ms. Gill was a Senior Vice President at LPL Financial, with roles including Head of Regulatory Policy and Associate General Counsel. She provided strategic advice on policy initiatives and advocated for the firm’s positions on rule proposals and other policy matters. She also provided legal advice on regulatory issues, such as senior investor protection. Prior to joining LPL, Ms. Gill was an Assistant General Counsel in FINRA’s Office of General Counsel, a Counsel at WilmerHale, and a law clerk for the Honorable Ricardo M. Urbina, U.S. District Judge for the District of Columbia. Ms. Gill began her legal career as an officer in the U.S. Navy J.A.G. Corps, with assignments as a military prosecutor in Pearl Harbor, legal advisor to the NCIS Hawaii Field Office, and a Special Assistant U.S. Attorney at the U.S. Attorney’s Office in Honolulu. She obtained her law degree from the UCLA School of Law and her B.A. from the University of Pennsylvania.

Speakers:

Joseph Brady joined the North American Securities Administrators Association, Inc. (“NASAA”) in 2005 as associate counsel. In 2011, he was appointed General Counsel and in May 2015 was named as NASAA’s Executive Director. NASAA is the association of state, provincial, and territorial securities regulators in the United States, Canada, and Mexico. NASAA and its members are committed to protecting investors from fraud and abuse in securities transactions, and their activities focus on licensing, enforcement, and investor education. As Executive Director, Mr. Brady is responsible for oversight of NASAA’s century-old mission of investor protection across North America. During his time at NASAA, Mr. Brady’s responsibilities have included serving as deputy to NASAA’s representative on the Financial Stability Oversight Council and supporting the work of various committees including the NASAA Broker-Dealer and Investment Adviser Section Committees. He has led several initiatives undertaken by NASAA including the development of the NASAA Electronic Filing Depository for Regulation D, Rule 506 filings and the implementation of provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act governing the regulation of investment advisers. Prior to joining NASAA, Mr. Brady served as chief counsel to the Securities Division of the Mississippi Secretary of State. In this role he managed enforcement cases brought by the division and represented the Secretary of State in matters before state courts and administrative tribunals. Mr. Brady is admitted to the bars of Mississippi (inactive) and the District of Columbia and is a graduate of the Mississippi College School of Law and the University of Southern Mississippi.

Lourdes Gonzalez is Assistant Chief Counsel for Sales Practices in the Division of Trading and Markets at the U.S. Securities and Exchange Commission. The Office of Chief Counsel has program responsibility for a broad range of broker-dealer issues, including broker-dealer registration, sales practices, supervision, securities arbitration, and anti-money laundering compliance. She is a frequent speaker on these topics, and has represented the Commission both nationally and internationally. In addition, Ms. Gonzalez is the Commission’s representative to the Bank Secrecy Act Advisory Group and she oversees the Commission staff’s participation in the Financial Action Task Force. Prior to joining the Commission, Ms. Gonzalez worked at the U.S. Department of the Treasury. She earned her law degree from George Washington University and her undergraduate degree from Georgetown University.

Erin Linehan is responsible for four areas within the enterprise-wide compliance function: Dispute Resolution, Senior & At-Risk Clients; Marketing & Strategy Compliance and Corporate Functions Compliance. Aside from handling substantive work for these critical areas of the firm, these teams provide compliance and legal advice and guidance to the enterprise, metrics, data and trending that is essential for the firm to manage risk and make risk-based escalation decisions to senior management, while also providing education on best practices and trends to financial advisors so they may benefit from lessons learned. Ms. Linehan is involved in creating and developing policies and procedures in her areas of expertise for the firm at large. She is a frequent speaker at company and industry events, domestically and abroad, on lessons learned and best practices for financial advisors, supervisors, attorneys and compliance professionals. Ms. Linehan received her B.S. from Cornell University and JD, cum laude from
Tulane Law School with a specialization in European Legal Studies. She has her Series 7, 9 and 10 licenses, is a FINRA Arbitrator, a member of SIFMA's Senior Investor Working Group, FINRA's Senior Investor Roundtable, FINRA's CIC, and is on the Board of Governors for the Florida Securities Dealers Association. In 2016, Ms. Linehan founded and currently co-leads an organization of more than 100 women lawyers in the Southeast U.S. who practice in the financial services industry. Southeast Women in Financial Services is focused on networking, professional development, the advancement of women in financial services and philanthropic efforts to support financial education, professional development and economic security for women through community partnerships, education and advocacy. Ms. Linehan also sits on the Board of Directors for Pace Center for Girls, Inc. - Hillsborough.

James S. Wrona is Vice President and Associate General Counsel for FINRA in Washington, DC. In this role, he is responsible for various policy initiatives, rule changes and litigation regarding the securities industry. Mr. Wrona formerly was associated with the law firm of K&L Gates LLP, where his practice focused on complex federal litigation. He also previously served as a federal law clerk for the Honorable A. Andrew Hauk of the United States District Court for the Central District of California (Los Angeles). Mr. Wrona is a frequent speaker at securities and litigation conferences and author of numerous law review articles, including The Best of Both Worlds: A Fact-Based Analysis of the Legal Obligations of Investment Advisers and Broker-Dealers and a Framework for Enhanced Investor Protection, 68 Bus. Law. 1 (Nov. 2012); The Securities Industry and the Internet: A Suitable Match?, 2001 Colum. Bus. L. Rev. 601 (2001).
Legal and Regulatory Update
Panelists

Moderator

- Sarah Gill, Director State Relations, Office of Government Affairs, FINRA Office of Government Affairs

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- Joseph Brady, Executive Director, North American Securities Administrators Association (NASAA)
- Lourdes Gonzalez, Assistant Chief Counsel – Sales Practice, Division of Trading and Markets, U.S. Securities and Exchange Commission (SEC)
- Erin Linehan, Associate General Counsel – Compliance, Raymond James Financial, Inc.
- James Wrona, Vice President and Associate General Counsel, Regulatory, FINRA Office of General Counsel
To Access Polling

- Under the “Schedule” icon on the home screen,
- Select the day,
- Choose the Legal and Regulatory Update session,
- Click on the polling icon:
Polling Question 1

1. FINRA’s Rule 4512 trusted contact person requirement:
   a. Applies only to customers age 65 and over
   b. Permits the trusted contact person to transact in the account
   c. None of the above
FINRA Senior Investor Rules

- **FINRA Rule 4512 (Customer Account Information)**
  - Requires member firms to make reasonable efforts to obtain a trusted contact person upon the opening of a non-institutional customer’s account or when updating account information.

- **FINRA Rule 2165 (Financial Exploitation of Specified Adults)**
  - Permits temporary holds on disbursements in situations involving a reasonable belief of financial exploitation of a “specified adult” customer.
  - Specified adults include a person age 65+ or a person age 18+ who the member reasonably believes has a mental or physical impairment that renders the individual unable to protect his/her interests.
Polling Question 2

2. If an 80 year old client with limited funds requests a $100,000 disbursement to help her caregiver purchase a new home, her financial advisor should:
   a. Disburse the funds promptly
   b. Refuse to disburse the funds
   c. Escalate and seek guidance
Suspicious Activity Reports

Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends

Office of Financial Protection for Older Americans
NASAA Model Act to Protect Vulnerable Adults From Financial Exploitation Update Center

The following jurisdictions have enacted legislation or regulations based on the NASAA Model Act to Protect Vulnerable Adults From Financial Exploitation. Click on the jurisdiction's name to view information about the enacted laws or regulations. The year of passage is indicated. This page will be updated as new legislation or regulation based on the NASAA Model Act to Protect Vulnerable Adults From Financial Exploitation is enacted.

- Alabama Act 2016-141 (2016)
- Alaska HB 170 (2018)
- Arizona SB 1483 (2019)
- Arkansas Act 668 (2017)
- Colorado HB 17-1253 (2017)
- Delaware HB 332 (2018)
Senior Safe Act

May 23, 2019

Introduction

The Senior Safe Act became federal law on May 24, 2018.\(^1\) The Senior Safe Act does not mandate any action by financial institutions and regulators. However, for financial institutions and certain eligible employees (discussed below), affiliated persons, and associated persons (“eligible employees”), who satisfy its requirements, the Senior Safe Act provides immunity from liability in any civil or administrative proceeding for reporting potential exploitation of a senior citizen. As an example, this immunity can be helpful when a firm wants to report potential exploitation but fears that the report could violate a privacy requirement. This Fact Sheet provides general information regarding the Senior Safe Act with the goal of educating financial institutions and employees about the benefits of the Act.\(^2\)

What is the Senior Safe Act?

The Senior Safe Act protects “covered financial institutions”\(^3\) – which include investment advisers, broker-dealers, and transfer agents – and their eligible employees, from liability in any civil or administrative proceeding in instances where those employees make a report about the potential exploitation of a senior citizen (defined as not younger than 65 years) to a covered agency.\(^4\) The Senior Safe Act also provides a legal defense for those who disclose information about potential exploitation of a senior citizen to a covered agency.
FINRA’s Retrospective Review

Regulatory Notice

Retrospective Rule Review
FINRA Requests Comment on Rules and Issues Relating to Senior Investors

August 9, 2019

Notice Type
Request for Comment
Polling Question 3

3. Which topic would you like the panel to discuss?
   a. Extending the Rule 2165 safe harbor to cover temporary holds on transactions
   b. Extending the time period for temporary holds
   c. Adding a safe harbor for temporary holds placed due to concerns about a customer’s impairment
   d. Whom to contact if there is no trusted contact person
Transaction Holds
Time Period for Disbursement Holds
Disbursement Holds due to a Customer’s Impairment
Trusted Contact Person

Protecting Seniors From Financial Exploitation

APRIL 25, 2018 | FINRA STAFF
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Resources

FINRA Notices


FINRA Senior Helpline

- FINRA Securities Helpline for Seniors: 844-57-HELPS (844-574-3577)

- Report on the FINRA Securities Helpline for Seniors (December 2015)

- FINRA Securities Helpline for Seniors webpage
  www.finra.org/investors/have-problem/helpline-seniors

FINRA Other Resources

- FINRA Senior Investors Webpage
  www.finra.org/rules-guidance/key-topics/senior-investors

- NASAA-SEC-FINRA Senior Safe Act Fact Sheet (May 23, 2019)

- Protecting Seniors From Financial Exploitation (April 25, 2018)
  www.finra.org/investors/insights/senior-financial-exploitation

- FINRA Investor Alerts
  www.finra.org/investors/alerts
• Fighting Fraud 101 brochures
  https://tools.finra.org/portal/sai-portal

Securities and Exchange Commission Resources

• SEC Office of the Investor Advocate, How the SEC Works to Protect Senior Investors (May 2019)

• SEC Division of Investment Management, Response of the Chief Counsel’s Office to the Investment Company Institute (June 1, 2018)

• Investor Alert – Red flags to help identify elder abuse
  www.investor.gov/additional-resources/news-alerts/alerts-bulletins/investor-bulletin-help-adult-protective-services

• Investor Alert – Red Flags of Fraud
  www.investor.gov/additional-resources/news-alerts/alerts-bulletins/updated-investor-alert-seniors-five-red-flags

• Investor Alert – How to Avoid Fraud
  www.investor.gov/protect-your-investments/fraud/how-avoid-fraud

• Investor Alert – Promotion or Ad asking for your email address and phone number
  www.investor.gov/additional-resources/news-alerts/alerts-bulletins/investor-alert-dont-invite-investment-scams

• Investor Alert – Ponzi Schemes Targeting Seniors
  www.investor.gov/additional-resources/news-alerts/alerts-bulletins/investor-alert-ponzi-schemes-targeting-seniors

• Guide for Seniors: Protect Yourself Against Investment Fraud (brochure):
  www.investor.gov/additional-resources/general-resources/publications-research/publications/guide-seniors-protect

• Stopping Affinity Fraud in Your Community (brochure)
  www.investor.gov/additional-resources/general-resources/publications-research/publications/stopping-affinity-fraud

• Investor Bulletin – Planning for Diminished Capacity
  www.investor.gov/additional-resources/news-alerts/alerts-bulletins/investor-bulletin-consumer-advisory-planning
• Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults

• Enforcement Action: SEC Charges Texas Radio Host “The Money Doctor,” Halts Ponzi Scheme Targeting Elderly Investors
  www.sec.gov/litigation/litreleases/2019/lr24420.htm

North American Securities Administrators Association Resources

• Serve Our Seniors website
  http://serveourseniors.org

• NASAA Guide for Developing Practices and Procedures for Protecting Senior Investors and Vulnerable Adults from Financial Exploitation (September 2016)

• NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation
  http://serveourseniors.org/about/policy-makers/nasaa-model-act/

Financial Crimes Enforcement Network Resources

• Memorandum on Financial Institution and Law Enforcement Efforts to Combat Elder Financial Exploitation (August 2017)

• Advisory to Financial Institutions on Filing Suspicious Activity Reports Regarding Elder Financial Exploitation (February 2011)

• FinCEN Advisory Warns of Elder Financial Exploitation (February 2011)

Consumer Financial Protection Bureau Resources

• Reporting of Suspected Elder Financial Exploitation by Financial Institutions (July 2019)

• Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends (February 2019)
Recommendations and report for financial institutions on preventing and responding to elder financial exploitation (March 2016)