KEY ISSUES AFFECTING OUTCOMES: FINANCIAL FRAUD

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The Fraud Concern

Familiar Faces
• Unfortunately, more than half of all senior financial exploitation is perpetrated by friends, family members, or caregivers. This exploitation can be wide-ranging, is often the most difficult to prevent, and is the most under-reported form of senior financial exploitation. A victim of such exploitation may even seek to cover-up such abuse out of feelings of guilt, shame, or loyalty.

• A Metlife study found that seniors lose at least $2.9 billion each year to financial exploitation in media-reported cases*

• The National Adult Protective Services Association estimates that only 1 in 44 cases of financial abuse are ever reported to the authorities

• It is estimated that 1 in 5 Americans aged 65 or older have been victimized by financial fraud

*$The Metlife Study of Elder Financial Abuse, June 2011
Financial Exploitation Is...

• Third party fraud
• Family member exploitation
  o Inheritance Impatience
• Red flags of exploitation
• Red flags of cognitive impairment
New Tools in the Toolbox to Combat Exploitation

• New FINRA Rules
  o 4512 Amendment
  o New Rule 2165
New Amendments to Rule 4512
• Requires firms to attempt to collect trusted contacts for new and existing clients.
• Requires firms to attempt to regularly update that information.
• Includes an exemption for institutional accounts.
• Effective February 5, 2018.
Trusted Contact Authorization Form

- To be used in certain circumstances:
  - If customer cannot be reached
  - If firm has concerns about health status or well being of customer
  - If firm believes customer may be a victim of fraud/exploitation.

- Allows firms to share information
New Rule 2165

- Provides a safe harbor from FINRA Rules 2010, 2150 and 11870, allowing firms to temporarily hold suspicious disbursements for up to 25 days (or longer if ordered by a court or state agency of competent jurisdiction).
- Focuses on disbursements
- Includes recordkeeping and compliance requirements.
- Effective February 5, 2018.
**State Report & Hold Laws**

**Laws:**
- Alabama – [Act No. 2016-141](#)
- Alaska - [Chapter 65 SLA 2018](#)
- Arizona – [Chapter 221 (2019)](#)
- Arkansas – [Act No. 668 (2017)](#)
- California - [Chapter 272 (2019)](#)
- Colorado – [Chapter 289, SL of 2017](#)
- Delaware – [Title 31, Ch. 39 & Title 6, Ch. 37 Del Code](2015/2018)
- Indiana – [Act. No. 221 (2016)](#)
- Kentucky – [Acts 2018, Ch. 12714](#)
- Louisiana – [Act No. 580 (2016)](#)
- Maine – [Chapter 17 (2019)](#)
- Maryland – [Ch. 838, 2017](#)
- Minnesota – [Ch. 161, Laws of 2018](#)
- Mississippi – [Sec. 75-71-413 MS Code 1972 (2017)](#)
- Missouri – [RSMo 409.600-409.630 (2015)](#)
- Montana – [Chapter 84 (2017)](#)
- New Hampshire – [Chapter 208 of 2019](#)
- New Mexico – [Chapter 106 of 2017](#)
- North Dakota – [Ch. 10-04-08.5, Code of ND (2017)](#)
- Oregon – [Chapter 514, 2017 Laws](#)
- Rhode Island – [S. 433-A](2019)
- Texas – [Art. 581-45 Vernon’s TX Civil Statutes (2017)](#)
- Utah – [Sec. 61-1-201 – 206 U.C.A](#)
- Virginia – [Sec. 63.2-1606(L) (2019)](#)
- Washington State – [Ch. 133, Laws of 2010](#)

**Rules:**
- Vermont – [Regulation S-2016-01](#)
More Tools in the Toolbox

• Senior Safe Act – became law May 2018
  o Provides broader protections for firms that report suspicions of elder financial exploitation to State and Federal regulators and investigators

• Senior Security Act – passed the House April 2019
  o GAO Study
  o SEC Task Force
• If you have additional questions, please contact me at lbleier@sifma.org
• Visit our Senior Investor webpage and Download our Toolkit at:
  • https://www.sifma.org/resources/general/senior-investor-protection-toolkit/
  • https://www.sifma.org/explore-issues/senior-investors/

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