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**VIA EMAIL**

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**Re: Comments on Proposed NASAA Model Act to Protect Vulnerable Adults**

Dear NASAA Senior Issues/Diminished Capacity Committee:

Thank you for the opportunity to comment on NASAA's Proposed Model Act to Protect Vulnerable Adults from Financial Exploitation. The Georgia State University College of Law Investor Advocacy Clinic is committed to protecting the interests of consumer investors. Because the Model Act protects vulnerable adults from exploitation, we submit this comment in support of the proposal. While we support the proposal, we suggest two amendments. First, the proposal should require education for qualified employees on how to evaluate whether a vulnerable person is being financially exploited. Second, the Model Act's age coverage should be increased from 60 to 65 years of age.

*I. Qualified Employees Should Receive Education and Training on Red Flags of Financial Exploitation.*

While the Model Act mandates that qualified employees[1] report to state securities regulators and state adult protective service agencies when the qualified employee has a reasonable belief that there has been financial exploitation,[2] there is no explanation of the factors the qualified employee should consider in determining the Model Act's application to particular facts. Because of the

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[1] The Model Act defines a qualified employee as any agent, investment adviser representative or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser. *See* Section 2(7).
[2] NASAA Proposed Model Act, Section 3.

difficulty defining a range of criteria applicable to all potential situations,[3] we recommend that the Model Act include an educational component directing state securities administrators and related divisions to create and provide educational programs to qualified employees. NASAA has a pre-existing robust educational focus that could assist states in this regard.[4] Moreover, many state securities divisions engage in investor education. Leveraging these resources to provide statutorily mandated training will protect investors and help qualified employees adhere to the Model Act.[5]

Such a requirement is not without precedent. Existing state laws relating to elder abuse may provide guidance. For example, Georgia's Disabled Adults and Elder Persons Protection Act includes a provision that requires relevant state agencies to work together to "develop programs for the education and training of social services, criminal justice, and judicial professionals concerning the abuse, neglect, and exploitation of disabled adults, elder persons, and residents of long-term care facilities."[6] An educational mandate in NASAA's proposal will increase qualified employees' awareness of the signs of financial exploitation while mitigating potential misapplication of the Act.

*II. The Model Act Should Increase the Age of Coverage from 60 to 65 years or older.*

Because existing state laws that protect vulnerable adults from financial exploitation use 65 years of age or older as a triggering point for coverage,[7] the Model Act should align its protections with laws already in place to ensure consistent application and reduce uncertainty as to coverage.

The Investor Advocacy Clinic supports the proposal's efforts to protect vulnerable adults from financial exploitation. We recommend that NASAA encourage educating qualified employees and use 65 year or older as the age coverage of the Act. Thank you for your consideration.

Best regards,

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[3] In FINRA's similar rule proposal to protect vulnerable and senior investors from financial exploitation, FINRA Regulatory Notice 15-37, no criteria is provided beyond "the facts and circumstances observed in the member's business relationship with the natural person." *See* FINRA Regulatory Notice 15-37, p. 16.

[4] *See, e.g.*, Senior Investor Resource Center, www.nasaa.org/1723/senior-investor-resource-center (last accessed October 29, 2015).

[5] Another alternative would be to require that all qualified persons complete training sessions approved by applicable state securities administrator.

[6] *See* O.C.G.A. § 30-5-10.

[7] *See* O.C.G.A. § 30-5-10 (defining "elder person" as "a person 65 years of age or older who is not a resident."). *See also* FINRA Regulatory Notice 15-37 (proposed rule with coverage beginning at age 65).