



NASAA Insight

1919 - 2019: 100 Years of Investor Protection
2019 | Volume 2

NASAA Updates Operation Cryptosweep More Than 130 New Investigations Underway

With news surrounding the surging price of cryptocurrencies such as bitcoin and a new product backed by Facebook poised to enter the market, investors have returned to cryptocurrency-related investment products looking for quick profits. Unfortunately, con artists also are taking advantage of the price surge.

State and provincial securities regulators are seeing an uptick this year in solicitations in potential crypto-related frauds. In August, NASAA announced that through its ongoing Operation Cryptosweep initiative, state and provincial securities regulators have opened 130 new investigations into questionable cryptocurrency-related investment offerings and have 35 pending or completed enforcement actions since the beginning of this year.

In April 2018, NASAA organized a task force of its member state and provincial securities regulators to begin a coordinated series of investigations into initial coin offerings (ICOs) and other cryptocurrency-related investment products. Since then, this coordinated regulatory focus has resulted in 85 pending or completed enforcement actions involving ICOs or cryptocurrency-related investment products and approximately 330 inquiries or investigations by securities regulators from U.S. states and Canadian provinces.

(Continued on page 2)



"Investors should be mindful of the hype and be aware of the risks when considering whether to jump into cryptocurrency-related investment products," said Michael S. Pieciak, NASAA President and Vermont Commissioner of Financial Regulation.

House of Representatives Applauds NASAA's Centennial

In July, the U.S. House of Representatives approved a bipartisan resolution honoring the 100-year anniversary of the North American Securities Administrators Association (NASAA). The resolution was introduced on June 21, 2019 by Reps. Ayanna Pressley (D-MA) and Bill Huizenga (R-MI), both members of the House Financial Services Committee. It was co-sponsored by Reps. Stephen Lynch (D-MA), also a member of the committee, and Van Taylor (R-TX).

"As NASAA proudly celebrates its centennial anniversary, we are humbled to be honored by the House of Representatives and appreciate its affirmation of the vital role NASAA members serve in protecting Main Street investors and facilitating responsible capital formation for small businesses across our country," said Michael S. Pieciak, NASAA President and Vermont's Commissioner of Financial Regulation.

Speaking on the House floor, House Financial Services Committee Chair and bill manager Maxine Waters (D-CA) said "The primary mission of both state securities regulators and NASAA is to protect and advocate for the protection of investors, especially the most vulnerable investors, like our nation's seniors, who may lack the expertise, experience, and resources to protect their own interests."

The resolution acknowledges state securities regulators as "the original pioneers of regulating the United States capital markets," and, as modern "leaders in civil and administrative enforcement actions, as well as criminal prosecutions of securities violators," whose actions have "led efforts resulting in landmark settlements to stop unfair practices in the securities industry, the return of billions of dollars to harmed investors, and thousands of bad actors sitting in jail as the result of their work ... uncovering fraud."

From the Leadership

President's Message: Michael Pieciak



For the past 100 years, state and provincial securities regulators have worked together through NASAA to build a strong record of investor protection, effective regulation and innovative education.

That work is as important today as it was when NASAA was founded in 1919. As we enter our second century of service to our mission of educating and protecting investors and supporting responsible capital

formation, NASAA is truly an international organization delivering on its mission to assist members in fulfilling their regulatory responsibilities.

When I began my term last September, I set out a list of priorities for the year ahead. I am very pleased that significant progress has been made on these priorities.

For example, NASAA's membership in May voted to adopt an investment adviser model rule that requires investment advisers to adopt policies and procedures regarding information security and to deliver its privacy policy annually to clients.

We've also seen progress on another NASAA model – our Model Act to Protect Vulnerable Adults from Financial Exploitation. So far, 23 jurisdictions have enacted legislation based on, or inspired by, the NASAA Model Act, including four this year.

Much of our work this year has focused on the SEC's Regulation Best Interest, approved by the commission on June 5. In July, NASAA formed a task force of state securities regulators to assist NASAA members in the interpretation and implementation of the rule and its related releases and to conduct other activities as directed by NASAA's Board.

July also saw the launch of our new website and the completion and release of a joint NASAA-SEC staff guidance on opportunity zone investments. Separately, NASAA issued a related investor advisory to raise awareness of the risks associated with these investments. In addition, our new Strategic Planning Committee neared the completion of its work to update the strategic plan for the association.

By all measures it's been a very busy and productive summer at NASAA. We have accomplished much but have more work to do.

I'd like to sign off by thanking former Tennessee Assistant Commissioner of Securities Frank Berger-Gilligan for his service as NASAA's president-elect. And I look forward to working with New Jersey Securities Bureau Chief Chris Gerold when he assumes the role of NASAA President this September.

Serving as NASAA President is a major commitment and we are fortunate to have dedicated volunteers such as Frank and Chris who were willing to offer their time and expertise in leading our organization.

Operation Cryptosweep (from page 1)

"Recent headlines of potentially new cryptocurrency products, the near tripling in value of some cryptocurrencies and the sharp increase in market capitalization for all cryptocurrencies are again creating an environment that attracts white-collar criminals, bad actors, and other promoters of illegal and fraudulent securities schemes," said Michael S. Pieciak, NASAA President and Vermont Commissioner of Financial Regulation. "Investors should be mindful of the hype and be aware of the risks when considering whether to jump into cryptocurrency-related investment products."

To help raise investor awareness, NASAA is releasing the third in its "Get in the Know" video series, featuring common crypto investment schemes and how to guard against becoming a victim. The video also outlines the common concerns investors should consider before risking their money on a cryptocurrency.

Pieciak points out that not every cryptocurrency-related investment offer is a fraud, but it is important for individuals and firms selling these products to understand that state and provincial laws or regulations may apply to these sales, particularly securities laws.



NASAA Issues Report on Non-Traditional Exchange Traded Funds

A new NASAA report on broker-dealer sales practices for complex non-traditional Exchange Traded Funds (ETFs), such as leveraged and inverse ETFs, recommends improved policies and procedures regarding their sale.

“Broker-dealers should carefully consider whether to permit purchases of leveraged and/or inverse ETFs in retail customer accounts,” said Michael S. Pieciak, NASAA President and Vermont Commissioner of Financial Regulation. “Registered representatives who recommend these products without fully understanding them and without receiving appropriate supervision by their firms pose a great risk to investors.”

The report, released July 31, 2019, recommends tailored supervisory procedures be established for firms that allow leveraged and/or inverse ETF transactions. Further, the supervisory procedures should address the heightened and specific risks associated with these complex products.

The NASAA Broker-Dealer Section’s Investment Products and Services Project Group collected information from 118 broker-dealers to gain a better understanding of whether registered representatives are recommending the purchase and sale of leveraged and/or inverse ETFs and, if those purchases and sales are permitted, how firms are supervising such transactions.

The complete report is available on the NASAA website under Industry Resources > Broker-Dealers.

NASAA Launches New, Redesigned Website With Enhanced Features

In July, NASAA announced the launch of its new website as the organization commemorates the beginning of its second century of investor protection. The new website remains located at www.nasaa.org, but has an updated design, new navigational tools, improved search functions and an interactive map to assist users in locating securities regulators and their resources.

“Our new website is designed with the user in mind,” said Michael S. Pieciak, NASAA President and Vermont Commissioner of Financial Regulation. “The new website highlights the tremendous investor protection resources available from state and provincial securities regulators as well as the work of NASAA in advocating for the protection of Main Street investors and responsible capital formation.”

Pieciak said NASAA’s website was developed with input from internal and external stakeholders and highlights resources identified by visitors to the site as most useful. Key new features include: a homepage menu highlighting content on internal resource pages for investors, industry, policymakers, and members; enhanced search capabilities including the ability to search comment letters, legislative letters, legal briefs, news releases and other materials by topic and year; and an improved registration process for NASAA members and non-members to participate in NASAA-sponsored meetings and events. This process allows members and non-members to create an account to process their registration.



NJ Securities Bureau Chief Gerold to Lead NASAA

Christopher Gerold, chief of the New Jersey Bureau of Securities, has been elected by the NASAA membership to serve as President-elect and will serve as NASAA’s president for the 2019-2020 term at the conclusion of President Michael Pieciak’s term in September, 2019.

Mr. Gerold filled the position vacated by former President-elect Frank Borger-Gilligan, who withdrew from the position in advance of his departure from the Securities Division of the Tennessee Department of Commerce and Insurance in late June.

“I strongly support the work and mission of NASAA and look forward to leading our association as it enters its second century of investor protection and service to state and provincial securities regulators throughout North America,” President-elect Gerold said.

Mr. Gerold has served as Securities Bureau Chief within the New Jersey Office of the Attorney General since 2017. He began his legal career as a Deputy Attorney General in the Securities Fraud Prosecution Section of the New Jersey Division of Law, where from 2005 to 2010 he represented the Bureau during investigations and as a lead trial attorney in litigated matters. Before returning to public service, Mr. Gerold was an attorney with the law firm of Chiesa, Shahinian & Giantomasi PC where he was a member of the firm’s Securities Litigation and Enforcement Group.

NASAA's 2019 Public Policy Conference

NASAA @ 100:

NASAA Celebrates 100-Year Anniversary during Washington Public Policy Conference



Former NASAA President Craig Goettsch (right), is joined by former Presidents Denise Voigt Crawford (second from right), Christine Bruen, and NASAA Executive Director Joseph Brady for a discussion of the historical relationship of state and federal securities regulations as part of NASAA's centennial anniversary recognition.



Lisa Hopkins, chair of NASAA's Corporation Finance Section and General Counsel and Senior Deputy West Virginia Securities Commissioner, moderates a discussion on corporate governance issues with panelists (from left) Ann Lipton, Professor, Tulane Law School; Erik Rust, Director, U.S. Chamber Center for Capital Markets Competitiveness; and Patrick McGurn, Executive Director, Institutional Shareholder Services.



NASAA President-elect and New Jersey Securities Bureau Chief Chris Gerold (left) leads a discussion on state securities law enforcement with panelists Bradley Bondi, Cahill Gordon & Reindel LLP; Chad Johnson, Partner, Quinn Emanuel Trial Lawyers; and Neal E. Sullivan, Sidley Austin LLP.



NASAA President Michael Pieciak presents retired Florida Deputy Commissioner of Financial Regulation Pam Epting with NASAA's highest honor, the Blue Sky Cube, in recognition of her exemplary service to the association and investors.

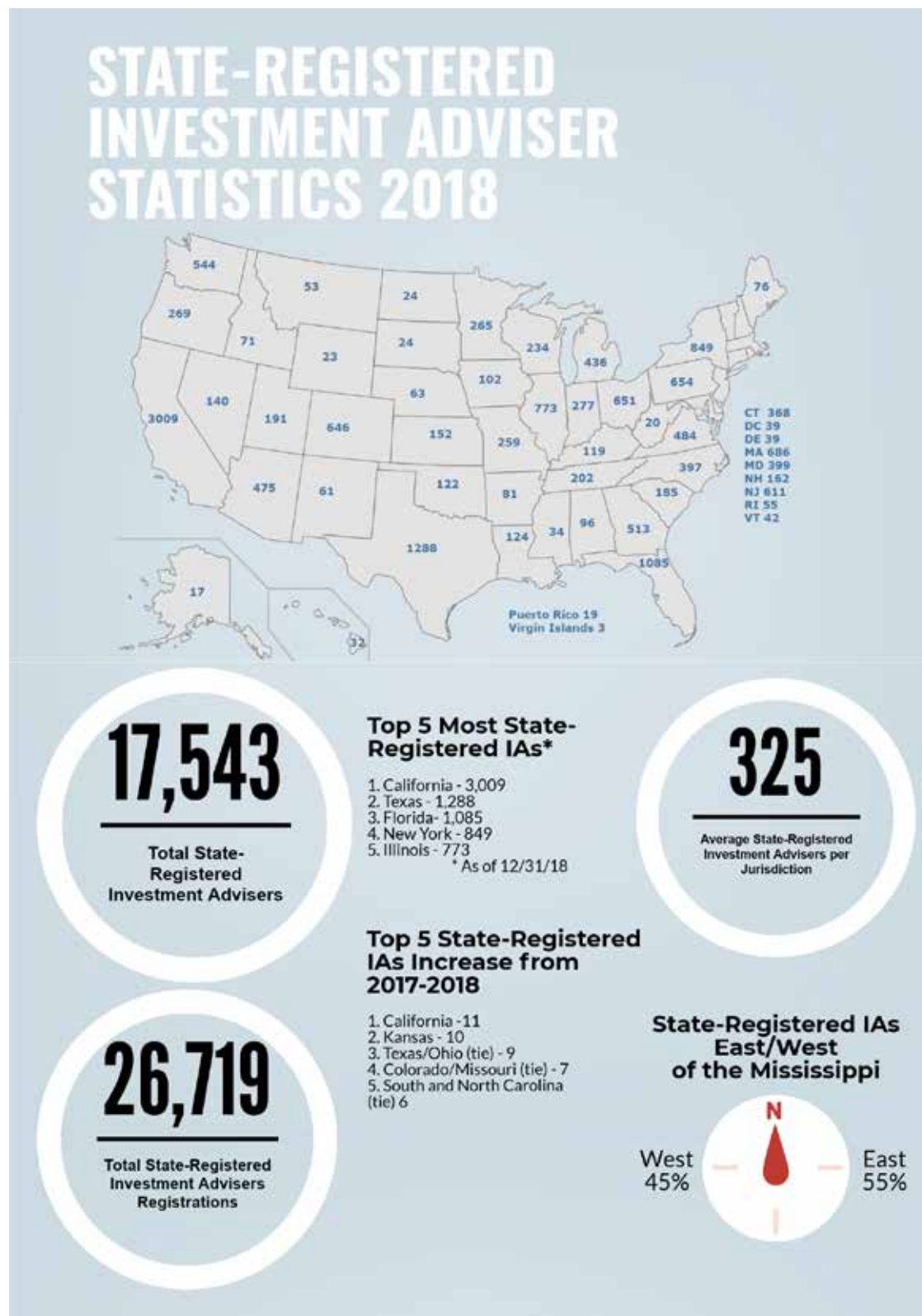
Retired Massachusetts Securities Division Director Bryan Lantagne (right) receives NASAA's Lifetime Achievement Award for his long and distinguished career protecting investors throughout North America through his service with NASAA.



2019 State-Registered IA Snapshot

NASAA Releases 2019 Investment Adviser Section Report

Updated data on state-registered investment advisers is included in NASAA's newly released report detailing the landscape of the state-registered investment adviser population and the related regulatory activities of state securities regulators. The report is available on the NASAA website under Industry Resources > Investment Advisers > Reports.



Standards of Care Update



On June 5, 2019, the Securities and Exchange Commission voted to adopt Regulation Best Interest, Form CRS, and other related proposals.

NASAA has long advocated for raising the standard of care applicable to broker-dealers. Following the SEC's adoption of Regulation Best Interest, NASAA President and Vermont Commission of Financial Regulation Michael S. Pieciak noted that the decline of private sector pensions has increased the burden on American workers to save and invest for their retirements. "Unfortunately, many hard-working Americans have fallen behind in building a secure retirement. The sale of costly and/or ill-advised investment products has only deepened this problem. It is more important now than ever to ensure investors' interests come first," he said.

Pieciak noted that state securities regulators have held state-registered investment advisers to a rigorous fiduciary duty standard and have long advocated for a robust broker-dealer conduct standard so all investors can have confidence that their financial professionals put them first and will continue to do so.

"Through comment letters and conversations during the course of the rulemaking process, we have called on the SEC to strengthen the proposed best interest rule to once and for all end abusive broker-dealer sales practices and to adopt a strong interpretation of fiduciary duty. We thank and appreciate the SEC's willingness to engage with us during this important rulemaking," he said.

Noting the complexity of the final rule and its related releases, Pieciak said NASAA has formed a committee of state securities regulators to assist NASAA members in the interpretation and implementation of Regulation Best Interest and related SEC releases and to conduct other activities as directed by NASAA's Board.

"Reg BI ultimately is meant to better protect investors and align their expectations for the services and advice they receive from broker-dealers," Pieciak said. "We will assess the rule's implementation to track its progress toward delivering on that promise with tangible results for investors."

In related developments, on July 26, 2019 NASAA filed a comment letter with the Massachusetts Securities Division regarding its preliminary rule proposal to require fiduciary conduct standard of broker-dealers and their agents, as well as for investment advisers and their representatives.

The rule proposal would make it a dishonest or unethical business practice within the meaning of the Massachusetts Uniform Securities Act, for a broker-dealer, broker-dealer agent, investment adviser, or investment adviser representative who is registered or required to be registered with the state to recommend a security or investment strategy to a customer that is not the best of the reasonably available options.

For recommendations made pursuant to transaction-based compensation, fees paid to the broker-dealer or adviser also must be the best of the reasonably available remuneration options for the customer.

These duties would be owed primarily to retail investors, as the Rule Proposal excludes certain institutions – banks, broker-dealers, investment advisers or institutional buyers – from the scope of the proposal. Guidance on the Rule Proposal makes clear that the duties it proposes would apply to recommendations regarding the selection of account types, such as recommendations regarding IRA rollovers.

In its comment letter, NASAA strongly supported the right of Massachusetts to protect its investors, noting that investor protection lies at the very heart of state securities laws.

A complete copy of NASAA's comment letter is available on the NASAA website along with comment letters in response to similar rulemaking underway in New Jersey and Nevada.



NASAA Members Vote on New Policies

Cybersecurity for IAs

NASAA members in May voted to adopt an information security model rule package, taking a significant step toward enhancing the cybersecurity and privacy practices of state-registered investment advisers.

“The new model rule requires investment advisers to adopt policies and procedures regarding information security and to deliver the privacy policy annually to clients. I am pleased that the NASAA membership adopted this information security model rule package, which now is available for individual jurisdictions throughout the United States to implement through regulation,” said Michael S. Pieciak, NASAA President and Vermont Commissioner of Financial Regulation.

The adopted information securities model rule package has three components:

- A model rule requiring investment advisers to adopt policies and procedures regarding information security (both physical security and cybersecurity) and to deliver its privacy policy annually to clients;
- An amendment to the existing investment adviser NASAA model recordkeeping requirements rule to require that investment advisers maintain these records; and
- Amendments to the existing investment adviser NASAA Unethical Business Practices of Investment Advisers, Investment Adviser Representatives, and Federal Covered Advisers and NASAA Prohibited Conduct of Investment Advisers, Investment Adviser Representatives and Federal Covered Investment Advisers Model Rule USA 2002 502(b) model rules to include failing to establish, maintain, and enforce a required policy or procedure to the list of unethical business practices/prohibited conduct.

“Through this model rule package, NASAA seeks to highlight the importance of data privacy and security in our financial markets along with the related need for investment advisers to have information security policies and procedures,” Pieciak said.

More information is available on the NASAA website under Industry Resources > Investment Advisers.

Small Company Offering Registration SOP & Form

NASAA members in May approved updates to the Small Company Offering Registration (SCOR) Statement of Policy and the SCOR Form (Form U-7). These were last updated in 1996 and 1999, respectively.

The updates to the SCOR Statement of Policy increased the offering limit from \$1 million to \$5 million and incorporated many of the investor protections that have been put in place under state and federal crowdfunding laws, including investment limits, sales report requirements, and ongoing reporting requirements.

NASAA members also approved a comprehensive update of the SCOR Form. The new SCOR Form includes updates drawn from intrastate crowdfunding forms, federal Form C, word processing features, and changes in federal law.

More information is available on the NASAA website under Industry Resources > Securities Issuers.

Franchise Disclosure

NASAA members in May approved an update to the instructions in the NASAA Franchise Registration and Disclosure Guidelines for filing the state cover page to Franchise Disclosure Documents.

The updates amend Part III, Section B of the Franchise Guidelines by requiring three cover sheets: “How to Use This Franchise Disclosure Document,” “What You Need to Know About Franchising Generally,” and “Special Risk(s) to Consider About This Franchise.”

The update also includes new instructions that promote uniformity and reduce repetition in the presentation of risk factors.

More information is available on the NASAA website under Industry Resources > Franchise Resources.

NASAA: 100 Years of Investor Protection



Visit NASAA's new podcast library on the NASAA website under Investor Education > Multimedia Library > NASAA Podcasts

Tune in to NASAA's Podcasts

- **Episode 4:** A conversation with NASAA President Michael Pieciak and SEC Commissioner Elad Roisman of state-federal collaboration in the fight against elder financial abuse.
- **Episode 3:** A conversation with Maine Securities Administrator Judith Shaw on NASAA's senior investor protection initiatives.
- **Episode 2:** A continuation of the conversation with NASAA President Michael Pieciak about NASAA's legislative priorities for the 116th Congress.
- **Episode 1:** A conversation with NASAA President Michael Pieciak about NASAA's legislative priorities for the 116th Congress.

Visit the new NASAA Website

New Features, Same Address: www.nasaa.org



How to Log In to the New NASAA Website

Non-Members: You will need an account to register for NASAA events. Simply click "Log In" and then click "Create Account" and follow instructions.

NASAA Members: There is a new log-on process for members-only content. To access the members-only content and to register for trainings or events, you will need to have an account. Everyone with access to members-only content on the old NASAA website already has an account for the new website and a new username, *which is your work email address*. You are responsible for creating your password, which can be done by clicking the "Forgot Password" link beneath your username. Members without an account, simply click the "Create Account" link for instructions.



About NASAA

The North American Securities Administrators Association (NASAA) is a voluntary association of securities administrators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada and Mexico.

Organized in 1919, NASAA is the oldest international organization devoted to investor protection.

As the preeminent organization of securities regulators, NASAA is committed to protecting investors from fraud and abuse, educating investors, supporting capital formation and helping ensure the integrity and efficiency of financial markets.

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