ISSUE BRIEF

April 2024

Empower State Securities Regulators to Protect Older Americans

- *Financial exploitation remains a growing problem in the United States. Older and sometimes vulnerable Americans cannot afford to lose valuable funds that are critical to ensuring a secure retirement. This problem is particularly troubling considering that millions upon millions of Americans have not saved enough for retirement. Combating senior financial exploitation is critical to ensuring that this retirement crisis is not further exacerbated.*

- *Empowering states to better protect seniors from financial exploitation is a prudent investment in the health and financial well-being of older Americans. State securities regulators, as well as other state regulators, already undertake work to educate the public, raise awareness of misleading or fraudulent market practices toward seniors, and prosecute those who target seniors for fraud. Establishing federal grant programs to augment existing efforts would be a smart way to scale and expand this work.*

Background on Senior Financial Exploitation

Scammers target older Americans. According to data published by the U.S. Department of Treasury, the Financial Crimes Enforcement Network ("FinCEN") received approximately 155,000 Bank Secrecy Act ("BSA") reports between June 2022 and June 2023 related to elder financial exploitation incidents. The BSA reports were associated with more than $27 billion in reported suspicious activity, which may include both actual and attempted transactions.[1] According to the Federal Trade Commission ("FTC") data, consumers reported losing more than $10 billion to fraud in 2023, marking the first time that fraud losses have reached that benchmark. This marks a 14% increase over reported losses in 2022.[2] Persons aged 60 and over reported losing more than $1.6 billion to fraud in 2022. Investment scams amounted to $404 million, up 175% from 2021 figures. As in prior years, the analysis of fraud reports received by the FTC showed that older adults were substantially less likely to report losing money to fraud.[3] Last, AARP data published in 2023 shows that nine (9) in 10 American adults encountered a fraud attempt in the prior year. AARP found in 2021 that servicemembers are nearly 40% more likely to lose money to scams and fraud than the civilian population.[4]

For decades, state securities regulators have been leaders in the effort to protect older and sometimes vulnerable adults, including veterans, from financial exploitation. The states have developed strategic partnerships with the U.S. Securities and Exchange Commission ("SEC") and other regulators, state and federal law enforcement agencies, and organizations focused on serving seniors. In addition, the states have prioritized senior-focused education, outreach, examination, and enforcement. For example, the states joined forces to identify and stop abusive sales practices at so-called "free lunch" or "free dinner" seminars and

[1] *See* FinCEN, FinCEN Issues Analysis on Elder Financial Exploitation (Apr. 18, 2024).
[2] *See* FTC, As Nationwide Fraud Losses Top $10 Billion in 2024, FTC Steps Up Efforts to Protect the Public (Feb. 9, 2024).
[3] *See* FTC, FTC Issues Annual Report to Congress on Agency's Actions to Protect Older Adults (Oct. 18, 2023).
[4] *See* AARP, Veterans Battle Surprise Attacks from Fraud and Scams (Nov. 9, 2021).

support passing legislation inspired by NASAA's Model Act to Protect Vulnerable Adults from Financial Exploitation in approximately 40 states to date.[5]

Rationale for Grant Programs for State Securities Regulators

NASAA encourages Congress to keep state securities regulators in mind when establishing grant programs. Programs related to strategic planning for aging communities, financial literacy, and technology, for example, may be avenues for state securities regulators to access additional important resources.

In addition, NASAA continues to urge Congress to establish a grant program administered by the SEC. The program should give the SEC the authority and tools necessary to operate a data-driven grant program that the states can access to better protect older Americans. By establishing the program at the SEC, Congress would be making it even easier to create more opportunities for federal and state securities regulators to communicate and coordinate in their efforts to protect senior investors. The bipartisan, bicameral Empowering States to Protect Seniors from Bad Actors Act would establish such a grant program. During the 117th Congress, the U.S. House of Representatives passed this legislation with a strong bipartisan vote.[6]

Key Points

- *Older and sometimes vulnerable investors are at an increased risk of falling victim to securities fraud and investment scams.*

- *State securities regulators, while often underfunded, are committed to protecting the public and are well-positioned to prevent harm to, or intercede on behalf of, older and sometimes vulnerable investors in their states. Even small grants of up to $500,000 would aid aging communities and help protect vulnerable investors.*

- *Congress can mitigate this risk to older Americans by supporting thoughtful partnerships to improve investor education and bolster state securities regulators' examination and enforcement capacities.*

[5] To learn more, see NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation (listing states that have adopted a law inspired by NASAA's model legislation).
[6] *See* NASAA, Letter to the Congress Regarding S. 3529, the Empowering States to Protect Seniors from Bad Actors Act (Jan. 25, 2022).