



Protecting Senior Investors 2015–2020

An Update on the FINRA Securities Helpline for Seniors, Other FINRA Initiatives and Member Firm Practices

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I. Introduction

Seniors make up an increasingly large share of the American population¹ and hold higher levels of wealth than other generations. These factors, among others, make seniors an attractive target for financial exploitation, with evidence suggesting that such exploitation has been increasing in terms of both scope and magnitude.² Sadly, while seniors sometimes fall victim to financial exploitation by strangers, they are often exploited by individuals they know and trust, such as family members or caregivers. Senior investors who are isolated or suffering from cognitive decline may be particularly vulnerable to harm.³

FINRA has maintained a longstanding commitment to protecting senior investors and continues to work to address risks facing this investor population as part of our regulatory mission, including by:

- ▶ Launching the dedicated [FINRA Securities Helpline for Seniors](#) (the Helpline) in April 2015;
- ▶ Conducting rulemaking to give firms tools to address suspected financial exploitation of senior investors and other vulnerable adults;
- ▶ Identifying senior investor issues as a priority for our risk monitoring and examination programs;
- ▶ Bringing disciplinary actions for misconduct against senior investors;
- ▶ Collaborating with other regulators and organizations to address senior investor protection; and
- ▶ Funding and conducting research on senior investors and fraud, and educating investors on potential risks.

FINRA is issuing this report to provide an update on these initiatives to help senior investors on the occasion of the Helpline's five-year anniversary.⁴ This report describes the impact of the Helpline and highlights cases that illustrate its broad impact. In addition, the report provides insight into FINRA's ongoing work to protect senior investors beyond the Helpline, including targeted rulemaking in this area, and share effective practices observed during our firm examinations.

Helpline Staff Goes Above and Beyond

The Helpline received a call from a 99-year-old investor who had received a letter from her brokerage firm stating that her current registered representative was no longer assigned to her account. She was afraid to change to a new registered representative and she asked the Helpline staff for help with reviewing the letter. The caller told Helpline staff that she did not drive, had three recent surgeries, and was on medication that affected her cognitive abilities. She also shared that she did not have family or friends who she could trust to help her make financial decisions. Her main investment goal was to maximize the assets she could leave to wounded war veterans. To accommodate her physical limitations, Helpline staff took the initiative to drive to the caller's home, review the documents with her, and help her contact her firm to select a new registered representative.

The Helpline is available at 844-57-HELPS, Monday to Friday, 9 am – 5 pm (ET).

The Appendix lists resources on senior investor protection resources from FINRA, U.S. Securities and Exchange Commission (SEC), North American Securities Administrators Association (NASAA), Financial Crimes Enforcement Network (FinCEN) and Consumer Financial Protection Bureau (CFPB).

If you would like to share general comments or have questions regarding this report, please send them to Elena Schlickemaier, Member Supervision, Elena.Schlickemaier@finra.org or Steven Polansky, Member Supervision, at Steven.Polansky@finra.org.

II. The Helpline in Action

Overview

FINRA launched the Helpline on April 20, 2015 to provide investors with access to specially trained FINRA staff who can assist senior and vulnerable adult investors with questions or concerns about their brokerage accounts and investments. As of December 31, 2019,⁵ the Helpline has received over 18,000 calls from all 50 states and several countries. Helpline callers range in age from 17 to 102, with the majority of calls coming directly from seniors (with an average age of 70). The Helpline has made over 1,400 referrals to state, federal and international regulators, as well as over 200 referrals to state Adult Protective Services (APS), and assisted with the return of over \$7 million to investors. This section describes in greater detail many of the Helpline's significant accomplishments and the scope of its impact, including its guidance to callers, partnerships with firms, collaboration with other regulators and organizations, and support for FINRA's and other regulators' regulatory actions.

The Helpline staff answer questions and provide assistance on wide-ranging topics across the securities industry and escalate issues within FINRA or to other regulators—such as the SEC, state regulators, APS or international regulators—when there is potential evidence of misconduct. Helpline staff receive specialized training to prepare them to respond to and, where possible, resolve callers' questions, which may include contacting firms to resolve problems or clarify questions, obtaining restitution for customers, performing additional research, and connecting callers with FINRA and other resources. In addition, Helpline staff collaborate with the FINRA Foundation on outreach and communications to investors.

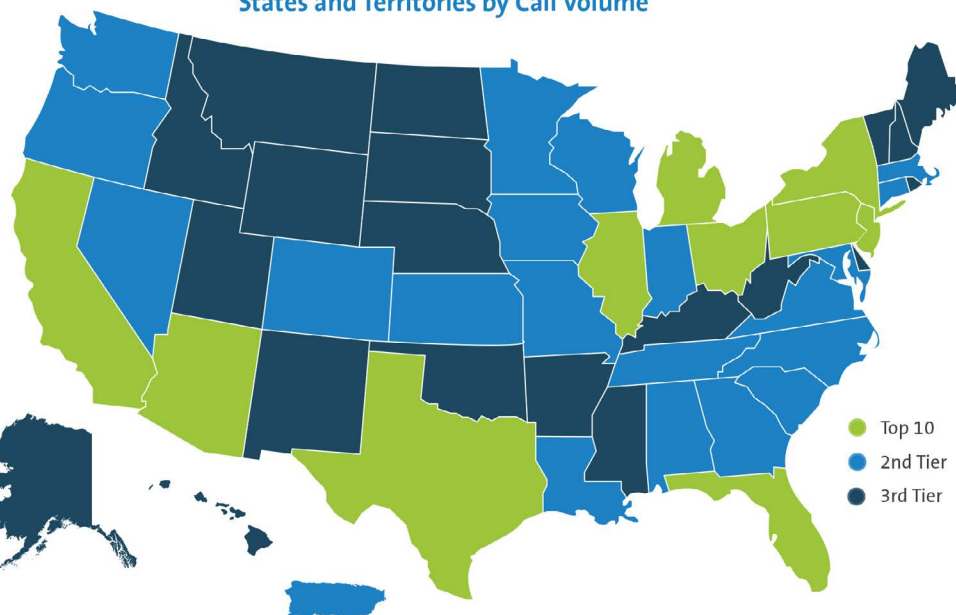
Partnership with FINRA Member Firms

The Helpline's success depends in large measure on the commitment of our member firms to proactively address concerns relating to senior investors. Since the Helpline's inception in 2015, firms have returned more than **\$7 million** to customers in matters discussed with the Helpline staff. The Helpline continues to engage in open dialogue with firms about issues raised during calls and partners with many firms to bring prompt resolution to customer issues and concerns. In some situations, firms proactively reach out to Helpline staff to share concerns and discuss possible courses of action for senior customers facing potential financial exploitation. In addition, Helpline staff, in coordination with FINRA's Office of Financial Innovation, engaged in discussions to learn how some vendors' account monitoring tools can assist in addressing the risks of financial exploitation and diminished capacity for senior investors.

Call Volume and Geographic Reach

The volume of calls to the Helpline has been consistently high, and the reach of the Helpline—across the United States and, in some cases, other countries—is broad. The Helpline has received calls from all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands. In addition, the Helpline has received calls from both U.S. and foreign citizens living in Australia, the United Kingdom, Canada, Israel, South Africa, Kenya, China, Uzbekistan and Namibia.

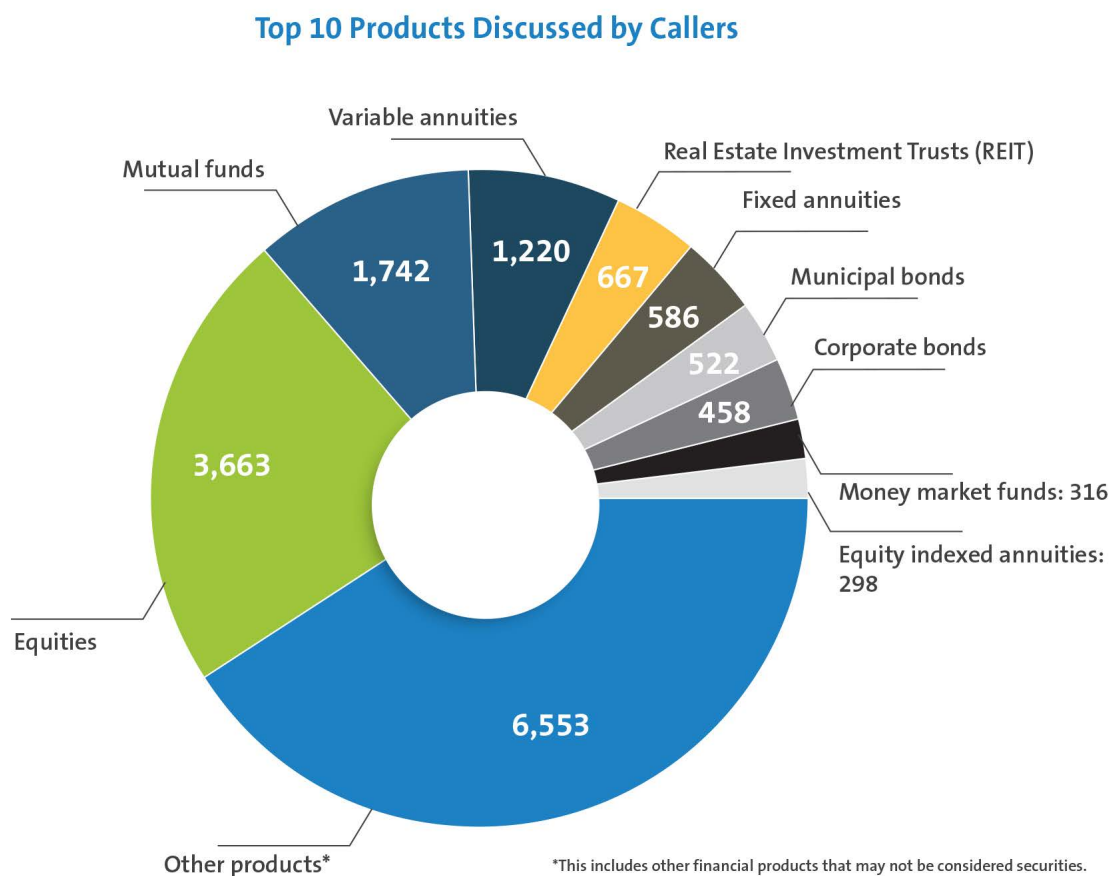
States and Territories by Call Volume



Helpline Staff Provides Information to Firm, Which Reinstates Guaranteed Lifetime Income for Customer

A senior investor contacted the Helpline because her monthly guaranteed lifetime annuity payment dropped without explanation. The Helpline staff worked with her firm to determine that her registered representative misstated the guaranteed income amount and, as a result, the customer was withdrawing extra funds from the annuity's principal without understanding the implications of those withdrawals. Due to the information provided by the Helpline staff, the firm offered to make the customer whole by providing her with a lump sum of more than \$180,000 to purchase a fixed immediate annuity that would bring her guaranteed income up to the level originally stated by the registered representative.

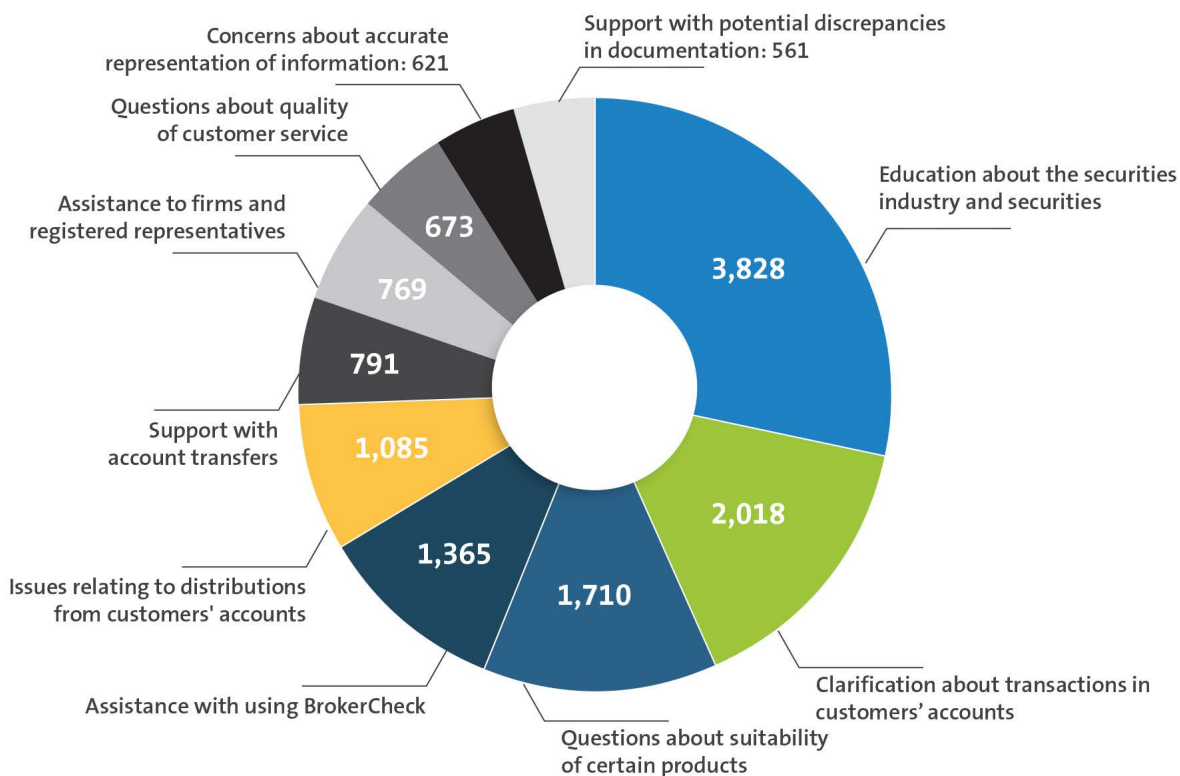
As of December 31, 2019, the Helpline had received over 18,000 calls. The average wait time for callers is under two minutes and the staff spends, on average, about 24 minutes with each caller.



Topics Addressed in Calls

Senior investors, their family members or their registered representatives reach out to the Helpline to request support regarding a broad range of issues. Some callers request guidance with accessing background information about their registered representatives in [BrokerCheck](#), whereas others raise concerns about other possible misconduct, such as fraud, financial exploitation or sales practice activity.

Top 10 Topics



Helpline Staff Contact Firm, Which Reassesses Suitability of Fixed Annuity and Refunds Senior Investor Almost \$300,000

A senior investor contacted the Helpline with concerns about potentially unsuitable recommendations. The senior investor stated that her registered representative recommended she liquidate her existing IRA to invest in a fixed annuity. The senior investor thought the registered representative misrepresented the product and did not explain that the product was a fixed annuity. When Helpline staff contacted the firm, it reevaluated the suitability of the product for the senior investor, rescinded the fixed annuity contract, and refunded the customer the original purchase payment of \$291,239.

Helpline Assists Enforcement, which Bars Registered Representative for Churning Senior Investor's Accounts

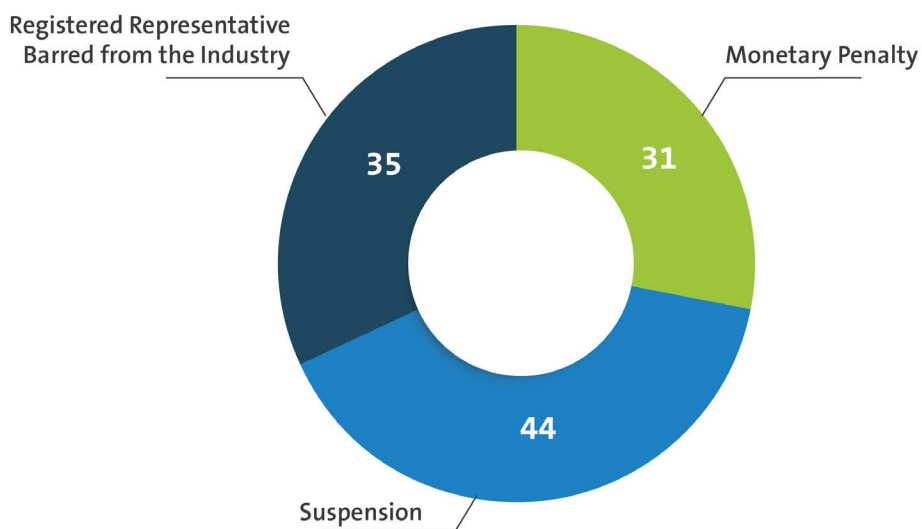
An individual contacted the Helpline regarding concerns about churning in a 93-year-old senior investor's account, over which the individual held power of attorney. FINRA found that the registered representative on the account effected over 2,800 transactions in four separate accounts for that senior investor, resulting in \$581,650 in commissions, \$84,270 in other fees and approximately \$397,000 in trading losses. FINRA barred the registered representative from the securities industry.⁶

FINRA Actions Arising from Helpline Matters

Some of the calls received by the Helpline require further investigation—including by FINRA's Departments of Member Supervision and Enforcement—if the Helpline staff observe potential financial exploitation or other misconduct.

Calls to the Helpline have led to FINRA imposing sanctions—including bars, monetary penalties and suspensions—on firms and registered representatives found to have engaged in misconduct relating to senior investors.

Enforcement Sanctions Arising from Helpline Matters



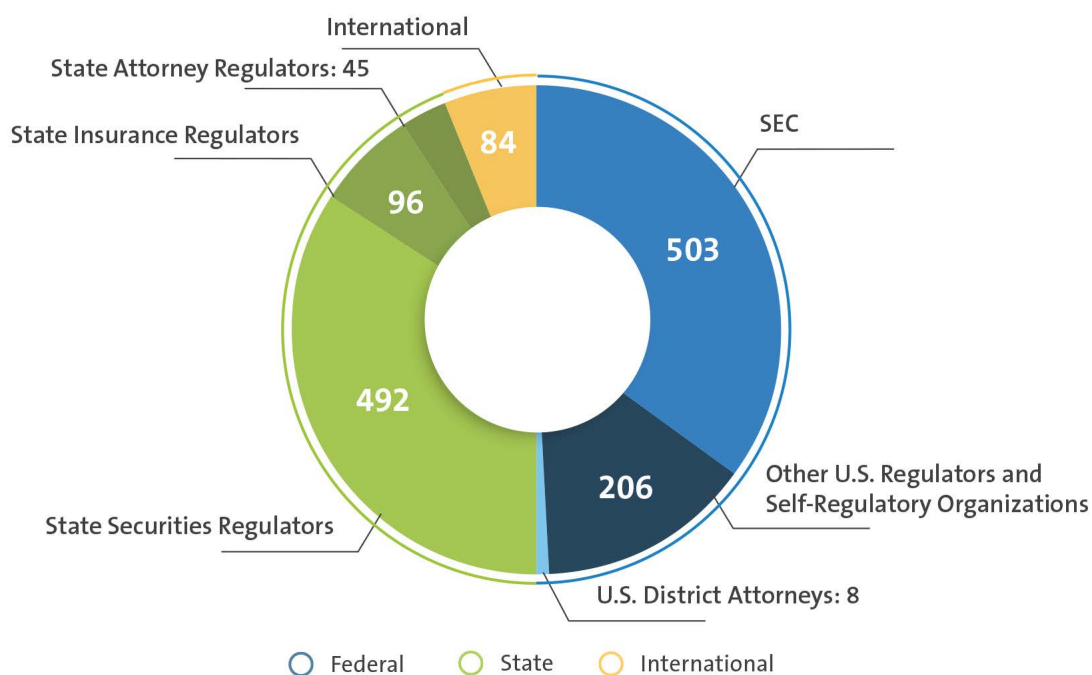
Helpline Assists Enforcement with Barring Registered Representative Who Opened Unauthorized Joint Account with Senior Investor

An anonymous tipster contacted the Helpline after discovering that a registered representative maintained a joint brokerage account with a senior investor. FINRA investigated the allegations and took the registered representative's testimony, where the registered representative denied having a joint brokerage account with a customer. FINRA's investigation revealed that the registered representative's testimony was false because he opened the joint brokerage account and accessed the account online numerous times per month. FINRA barred the registered representative from the industry.

Helpline Referrals to Other Regulators

In certain situations where Helpline staff identify potential legal and regulatory violations during discussions with customers that fall outside FINRA's jurisdiction, they also refer matters to other federal, state and local regulators for investigation and potential action.

Referrals to Other Regulators



In situations where Helpline staff have concerns about a senior investor's wellbeing or suspect potential financial or other exploitation, FINRA also reports to and works with the relevant state APS. Since 2015, FINRA has made over 228 referrals to state APS, which have enabled them to investigate and address matters relating to senior investors' financial and physical wellbeing.

Helpline Staff Help Stop \$31,000 Forgery and Grand Larceny

A senior investor called the Helpline for assistance regarding an unauthorized joint brokerage account opened for herself, her sister and another relative. According to the senior investor, her sister forged the senior investor's signature, provided the firm a copy of her stolen driver's license, and made an unauthorized transfer of \$31,000 to the joint account from the senior investor's individual account. The Helpline staff contacted the member firm and state authorities and, as a result, the senior investor's sister was ultimately arrested and charged with forgery and grand larceny. The firm also returned the \$31,000 to the senior investor's account.

Helpline Staff Assist Nassau County District Attorney with Identifying \$12 million Ponzi Scheme Targeting Senior Investors

Three senior investors called the Helpline, each stating that a registered representative solicited them to invest \$400,000 in purported Certificates of Deposit with interest rates of 4%-6%. FINRA barred the registered representative from the industry and ordered him to pay restitution of \$961,781, plus interest.⁷ Others involved in the scheme were not subject to FINRA's jurisdiction and the conduct potentially involved criminal activity, so FINRA also referred the matter to the Nassau County District Attorney, which charged the registered representative and an unregistered individual of running a Ponzi scheme that robbed 50 people, mostly senior investors, of more than \$10 million and returned \$4.6 million to victims.⁸

Collaboration with Other Regulators and Organizations

Helpline staff engage, on an ongoing basis, in a wide range of national and local law enforcement initiatives related to senior investors, including:

- ▶ **Transnational Elder Fraud Strike Force**—Worked with Strike Force established by the U.S. Attorney General to bring together joint law enforcement resources and expertise to investigate and prosecute fraud schemes that disproportionately target senior investors.
- ▶ **Miami U.S. Attorney's Office Elder Initiative**—Collaborated with representatives from the Federal Bureau of Investigation, Internal Revenue Service, Drug Enforcement Administration, U.S. Department of Housing and Urban Development, the State of Florida and the U.S. Postal Inspection Service.
- ▶ **CFPB's Office of Older Americans**—Held joint trainings with this Office, and meets periodically with state securities regulators and states' attorneys general to discuss senior investor protection issues.

Helpline staff based in FINRA's Florida office have hosted outreach and educational events on senior investor issues with the Florida Securities Dealer Association (FSDA), Palm Beach County Estate Planning Council and Florida Attorney General's Special Project "Seniors vs. Crime."

III. FINRA's Broader Commitment to Senior Investors

In addition to the Helpline, FINRA has consistently focused on addressing concerns relating to senior investors. Our efforts have included rulemaking to provide firms with tools to address financial exploitation of seniors, guidance in FINRA publications, reviews of senior investor protection programs in our examinations, enforcement actions and collaboration with other regulators, as well as research and education initiatives.

Rules and Regulatory Framework

In response to growing risks of senior financial exploitation, in 2017, FINRA amended FINRA Rule [4512](#) (Customer Account Information) and adopted FINRA Rule [2165](#) (Financial Exploitation of Specified Adults) (collectively referred to herein as the FINRA Senior Exploitation Rules) to create national standards that give member firms tools to address suspected financial exploitation of senior investors and other vulnerable adults.⁹ Over the past decade, FINRA issued a number of Regulatory Notices emphasizing firms' obligations to senior investors and providing guidance on how to fulfill those obligations.¹⁰ In addition, FINRA is currently conducting a retrospective review to assess the effectiveness and efficiency of our rules and administrative processes that help protect senior investors from financial exploitation.¹¹ Section IV of this report provides a comprehensive overview of FINRA Senior Exploitation Rules, as well as our retrospective rule review.

Examination, Oversight and Enforcement

FINRA's Risk Monitoring and Examination Programs have consistently focused on risks relating to senior investors in our reviews of firms' compliance programs. In particular, senior investor issues have been an examination priority in every FINRA annual priorities letter since 2014. As part of firms' exams, FINRA may review how firm controls protect senior investors and assess their compliance with regulatory obligations. Moreover, the fact that FINRA identifies senior investor protection as a priority may help firms concentrate their attention on their policies and procedures relating to senior investors.

Where appropriate, FINRA also brings disciplinary action against firms or registered representatives for misconduct against senior investors.

Collaboration with Other Regulators and Organizations

FINRA works closely with the SEC, the NASAA, state securities regulators, state APS, and the National Adult Protective Services Association (NAPSA) on approaches to senior investor protection. In May 2019, FINRA, the SEC and NASAA issued a [Senior Safe Act Fact Sheet](#) designed to raise firms', investment advisers' and transfer agents' awareness about the Act, its immunity provisions and additional resources relating to senior investors. In October 2019, FINRA and state regulators participated in the [SEC Roundtable on Combating Elder Investor Fraud](#), joined the SEC at the [Society for Corporate Governance Southeastern Securities Conference](#), and collaborated with the SEC's Miami office on several outreach events in local communities. In addition, FINRA collaborated with NAPSA to prepare and update the [National Guidelines for Financial Institutions: Working Together to Protect Older Persons from Financial Abuse](#). FINRA also collaborates with state regulators in providing training and addressing potential exploitation of senior and vulnerable adult investors. Moreover, FINRA regularly collaborates with these and other groups on various policy and rulemaking initiatives, as well as investigations and enforcement matters, involving seniors.

FINRA Enforcement Bars Registered Representative Who Cheated Senior Investor Out of \$9 million by Churning Account

FINRA barred two registered representatives for their respective roles in churning accounts belonging to a 79-year-old senior investor who suffered from severe cognitive impairment.¹² FINRA found that one of the registered representatives, as the broker of record, used her romantic relationship with the senior investor to exploit him where the two registered representatives effected more than 2,800 trades in his accounts, generating approximately \$9 million in commissions from September 2011 through June 2012. FINRA found that over half of these transactions involved short-term trading in long-maturity bonds, including municipal bonds, intended for customers with long-term investment horizons. FINRA also found that one of the registered representatives, who entered most of the day-to-day trades in the senior investor's account, exercised discretion without written authorization.

Buildathon Challenges Firms and Students to Protect Senior Investors

On November 8, 2019, FINRA, Deloitte Touche Tohmatsu Limited (Deloitte) and the MIT Student Fintech Club held a [Buildathon](#)—a hackathon-style competition—that challenged teams made up of students and attendees from financial firms to work together to develop solutions that would strengthen investor protection in four areas, including one focusing on senior investors. This senior-related challenge asked teams to develop tools to help firms identify securities that might pose risks to senior investors. The Buildathon was the first event of its kind to bring firm representatives, students and federal and state regulators together to develop technology-based solutions to investor protection challenges.

Research and Education

FINRA and, in particular, the [FINRA Investor Education Foundation](#) (FINRA Foundation), are conducting and disseminating research on senior investors and financial fraud¹⁴ and educating consumers about risks facing senior investors,¹⁵ including issues observed by the Helpline staff and other senior investor protection topics included in Appendix 1 to this report.¹⁶

In addition, we are engaging with national, state and grassroots partners to develop and distribute fraud prevention resources to consumers and providing training for law enforcement professionals, victim advocates and other intermediaries on the front lines fighting financial fraud. For example, since 2012, the FINRA Foundation has partnered with the National White Collar Crime Center to train over 2,150 law enforcement officials representing over 900 federal, state and local agencies in 38 different states on how to detect, prevent and respond to investment fraud. The Foundation regularly invites the SEC and the applicable state securities regulator to participate in these trainings.

Similarly, the FINRA Foundation has collaborated with the National Center for Victims of Crime to train more than 6,200 victim advocates (such as adult protective service workers, social workers and legal aid staff) to better assist individuals who have been victimized by investment and other financial frauds. Through this ongoing partnership, the FINRA Foundation has also distributed nearly 60,000 instructional guides.¹⁷ Over the same period, the FINRA Foundation has conducted outreach to consumers and supported Fraud Fighter Call Centers—operated by the AARP, the FINRA Foundation and the National Telemarketing Victim Call Center—in providing fraud detection and avoidance tips to more than 1.5 million Americans. FINRA also engages with staff of the Senate Special Committee on Aging to share perspectives on scams targeting seniors and potential resources for victims of fraud.

Most recently, in November 2019, FINRA held a [Senior Investor Protection Conference](#) to address issues relating to financial exploitation, diminished capacity, suitability, sales practices, scams, legal requirements and regulatory developments with speakers addressing federal, state, industry and medical perspectives. In addition, in October 2019, the FINRA Foundation and the Stanford Center on Longevity co-hosted a conference to share research, information and innovations that could help prevent financial fraud, including emerging neuroscience research on the impact of aging on vulnerability.

IV. FINRA Senior Exploitation Rules

Overview of FINRA Senior Exploitation Rules

The FINRA Senior Exploitation Rules provide firms with the tools to protect senior investors and help firms address risks relating to possible financial exploitation. FINRA Rule [4512](#) (Customer Account Information) requires firms to make reasonable efforts to obtain the name of and contact information for a trusted contact person upon the opening of a non-institutional customer's account or when updating account information for an existing non-institutional customer account. The trusted contact person is intended to be a resource for the firm in administering the customer's account, protecting assets and responding to possible financial exploitation or diminished capacity. FINRA notes that firms are not prohibited from opening and maintaining an account if customers fail to identify a trusted contact person, as long as they make reasonable efforts to obtain the information.

FINRA Rule [2165](#) (Financial Exploitation of Specified Adults) permits a firm to place a temporary hold on a disbursement of funds or securities from the account of a "specified adult"¹⁸ customer when the firm reasonably believes that financial exploitation¹⁹ of that adult has occurred, is occurring, has been attempted or will be attempted. In order to support firms' use of such holds to prevent potential financial exploitation, FINRA Rule [2165](#) provides member firms and their associated persons with a safe harbor from certain other FINRA rules.²⁰ FINRA also issued *Regulatory Notice 17-11* (SEC Approves Rules Relating to Financial Exploitation of Seniors) and [Frequently Asked Questions Regarding FINRA Rules Relating to Financial Exploitation of Senior Investors](#) to provide additional guidance about these rules and an investor education article to help investors understand the new rules.²¹

Retrospective Review of FINRA Senior Exploitation Rules

In *Regulatory Notice 19-27* (FINRA Requests Comment on Rules and Issues Relating to Senior Investors), FINRA launched a retrospective review to assess the efficiency and effectiveness of our rules and administrative processes that help protect senior investors from financial exploitation. As part of this review, FINRA is seeking input from both external and internal stakeholders, drawing on the expertise of its advisory committees and other subject-matter experts; and seeking the views and experiences of other stakeholders, including investors, investor advocates, other regulators and regulatory associations, broker-dealer firms, industry associations and the public. Upon completion of this assessment, FINRA will consider next steps, which may include: modifications to existing or proposing new rules, updated or additional guidance, administrative changes or technology improvements, additional tools, educational materials, or additional research or information gathering.

Helpline Helps Enforcement Stop Registered Representative who Stole Approximately \$200,000 to Purchase Two New York Apartments in His Name

Helpline staff assisted FINRA Enforcement, which found that the registered representative converted approximately \$200,000 from an elderly and legally blind senior investor, coerced him to open a joint account at a non-affiliated bank and used those funds to purchase two apartments in the registered representative's name by taking advantage of the investor's poor eyesight and inability to read documents.¹³ The registered representative maintained sole ownership of both apartments, including the investor's primary residence, and even rented the second apartment to tenants and collected and retained the rent. FINRA found that the registered representative violated FINRA Rule [2010](#) (Standards of Commercial Honor and Principles of Trade) and barred him from the industry.

Firm's Temporary Hold Protects Senior Investor from Concerning Investments

The daughter of a senior investor requested a disbursement from her father's account for \$35,000 to invest in an offering to build an overseas solar panel energy field and the customer agreed to the disbursement. The firm placed a temporary hold on the disbursement and conducted research and due diligence on the offering, which raised concerns about the legitimacy of the company, the claimed high rate of return and promises to return the customer's investment in 60-90 days. The firm also referred the matter to relevant regulators to further review the offering.

Proposed FINRA Rule to Limit a Registered Person from Being Named a Customer's Beneficiary or Holding a Position of Trust for or on Behalf of a Customer

Although registered representatives often develop close and trusted relationships with their customers, FINRA has observed conflicts of interest and misconduct when customers name such registered representatives as their beneficiaries, executors or trustees, or ask them to hold powers of attorney or similar positions. In particular, FINRA is concerned about registered representatives' serving in such roles for senior investors, who may be particularly vulnerable to financial exploitation.

As a result, *Regulatory Notice 19-36* (FINRA Requests Comment on a Proposed Rule to Limit a Registered Person from Being Named a Customer's Beneficiary or Holding a Position of Trust for or on Behalf of Customer) proposes new rulemaking to explicitly limit the ability of a registered person to be named to such positions for accounts of non-family-member customers.²² Proposed new FINRA Rule 3241 (Registered Person Being Named a Customer's Beneficiary or Holding a Position of Trust for a Customer) would require written notice from the registered person followed by the firm's review and assessment of whether to approve, approve with conditions, or disapprove the registered person assuming such status or acting in such capacity, including taking into consideration several factors, such as:

- ▶ any potential conflicts of interest in the registered person being named a beneficiary or holding the position of trust;
- ▶ length and type of relationship between the customer and registered person;
- ▶ customer's age;
- ▶ size of any bequest relative to the size of a customer's estate;
- ▶ whether, based on the facts and circumstances observed in the member's business relationship with the customer, the customer has a mental or physical impairment that renders the individual unable to protect his or her own interests;
- ▶ any indicia of improper activity or conduct with respect to the customer or the customer's account (*e.g.*, excessive trading); and
- ▶ any indicia of customer vulnerability or undue influence of the registered person over the customer.

Although the proposed new rule would not *prohibit* a registered person being named a beneficiary of or receiving a bequest from a customer's estate, FINRA would expect firms to employ heightened scrutiny in assessing such requests. The comment period for *Regulatory Notice 19-36* ended January 10, 2020. Any proposed rule change must be submitted to and approved by the SEC prior to becoming effective.

V. Effective Practices from Firms' Senior Investor Protection Programs

In 2019, FINRA assessed firms' senior investor protection programs, including their implementation of the FINRA Senior Exploitation Rules. In particular, FINRA evaluated how firms addressed risks relating to senior investors in their policies and procedures; gathered trusted contact person information; developed training relating to senior investors; implemented systems to escalate financial exploitation concerns; placed holds on disbursements in customer accounts; conducted senior investor exploitation investigations; and reported instances of financial exploitation.

Senior Investor Compliance Programs

FINRA observed that some firms developed comprehensive senior investor compliance programs—or integrated senior investor-related components into their existing programs—that demonstrated their commitment to the protection of senior investors and their appreciation of the many risks facing these customers:

- ▶ **Written Supervisory Procedures**—Firms developed, updated and enforced written supervisory procedures focusing on senior investors, which are required by FINRA Rule [2165\(c\)\(1\)-\(2\)](#) (Financial Exploitation of Specified Adults).²³
- ▶ **Suitability**—Firms considered suitability issues in the context of senior investors, including:
 - Providing disclosure of additional risks or limiting products being marketed to senior investors;
 - Having a clear, up-to-date understanding of investment objectives as a customer nears or begins retirement (*e.g.*, importance of generating income, preserving capital or accumulating assets for heirs);
 - Understanding a senior customer's sources of income (*e.g.*, whether the customer is living on a fixed income or anticipates doing so in the future);
 - Gaining an awareness of how much income a senior customer may need to meet fixed or anticipated expenses;
 - Asking about health care insurance and whether the customer may need to rely on investment assets for anticipated or unanticipated health costs;
 - Addressing additional concerns for senior investors, such as shortened time horizons, potentially decreased risk tolerance and additional significant liquidity needs; and
 - If applicable, considering potential cognitive decline when making recommendations to senior investors, and making additional efforts to explain the features and risks of products.

Helpline Assists Firm With Temporary Hold to Protect Senior Investor from Losing \$50,000 to Financial Exploitation from His Brother-in-Law

A brother-in-law of a senior investor called the Helpline, stating that the senior investor's firm had "frozen" the senior investor's account so the senior investor could not get access to \$50,000 the senior investor needed for medical treatment. After the Helpline staff contacted the senior investor, he revealed that he needed the \$50,000 to pay his brother-in-law a \$10,000 per month retainer as his attorney and to invest in a movie deal his brother-in-law found. Helpline staff contacted the firm, which had placed a temporary hold on the disbursements because it was concerned their customer was being financially exploited. Helpline staff then called the state's APS, which conducted a wellness check on the senior investor. Helpline staff referred the matter to the state securities regulator and local criminal authorities.

Firm's Temporary Hold Prevents \$200,000 Loss for Senior Investor Involved in a Central Intelligence Agency (CIA) Lawsuit Scam

A customer wanted to withdraw \$200,000 from her IRA to cover the upfront fees for a \$5.4 million lawsuit she believed she had won. The brokerage firm requested the customer provide the paperwork to verify the lawsuit and the customer stated that it was classified and related to the CIA. The firm indicated the disbursement would account for two-thirds of her assets, placed a temporary hold on the disbursement and contacted APS.

- ▶ **Escalation Process**—Firms implemented—and trained registered representatives to use—a comprehensive process to escalate issues relating to senior investors, including but not limited to concerns about financial exploitation, diminished capacity or cognitive decline.
- ▶ **Training on Financial Exploitation and Diminished Capacity Red Flags**—Firms developed FINRA Senior Exploitation Rules training²⁴ for registered representatives via interactive, video-based or in-person sessions, as well as ongoing, regular reminders that included spotting and responding to red flags of financial exploitation, diminished capacity or cognitive impairment in their clients.
- ▶ **Senior Investor Team**—Firms created a dedicated senior investor team or, in smaller firms, dedicated staff in Compliance or Legal departments, to:
 - Develop expertise on senior investor issues;
 - Draft desktop procedures regarding the processes of the group;
 - Facilitate broad training as well, as training tailored to specific groups that are likely to encounter red flags of financial exploitation or diminished capacity;
 - Send periodic reminders to key staff about red flags and escalation requirements;
 - Track federal and state requirements relating to senior exploitation, such as state laws that mandate reporting of potential exploitation and address holds on disbursements and transactions;
 - Serve as an escalation point for senior investor-related inquiries from registered representatives and others;
 - Conduct due diligence on situations where there may be suspected financial exploitation of senior investors;
 - Determine whether to place holds on disbursements or transactions, and track those holds;
 - Make resources available to firm customers and associated persons;
 - Engage interdisciplinary experts—such as social workers—to assist Legal and Compliance staff focusing on senior financial exploitation;
 - Report cases of potential senior investor financial exploitation to the relevant state APS, law enforcement, state securities regulators or other agencies; and
 - File Suspicious Activity Reports.

► **FinTech Tools**—Firms supported senior investors’ use of vendor tools that:

- Highlight potential instances where a senior investor is at risk for poor financial decision-making or exploitation, and facilitate collaboration on financial decisions with trusted individuals; and
- Monitor alerts relating to any concerning or inconsistent financial activity, contact trusted individuals and assist with remediation efforts.

Senior investors used fintech tools that help them manage their cash flow and other financial responsibilities, including pre-paid debit or credit cards where purchases can be monitored by trusted individuals and bill pay services to help them pay their bills on time.

► **Recognition for Superior Service to Senior Investors**—Firms implemented programs to recognize—through internal awards, articles or other publications—registered representatives who successfully leverage firm resources to protect senior investors, especially those who go above and beyond to take care of senior investors.

Firm’s Temporary Hold Prevents Senior Investor from Losing Almost \$10,000 in Lottery Scam

A customer contacted his firm because he believed he had won \$1.5 million in a Las Vegas lottery. The scammers had convinced the senior that he would need to pay a special tax in advance in order to get his funds. The scammers further told the customer that Ohio, the state where he lived, had a grant available that would pay the majority of the upfront tax, so he only needed to pay \$3,300. In further discussion with the customer, the firm learned that he had already paid over \$6,000 to try to receive his winnings, using funds held at an account outside the firm. When the firm questioned the customer about having to “pay the tax” twice, the customer indicated the first place lottery winner did not claim their prize and he by default won both. The customer also instructed the firm not to tell his wife, as he wanted to surprise her with the lottery winnings. The firm placed a temporary hold on the disbursement and contacted APS, state regulators and law enforcement.

Firm's Temporary Hold Helps Senior Investor Avoid \$60,000 Romance Scam

A customer requested a \$60,000 disbursement to an account in a different state to pay for the release of a General arrested in Afghanistan. The firm learned that this transfer was connected with the customer's romantic relationship with someone on an online dating site, and she had previously sent money from an account outside the firm. The firm placed a temporary hold on the disbursement and contacted APS and local law enforcement.

Implementation of the FINRA Senior Exploitation Rules

Some firms developed a number of effective practices to address the FINRA Senior Exploitation Rules:

- ▶ **Engaging Customers**—Firms trained registered representatives on how to discuss and request trusted contact person information for all non-institutional customers—not just senior investors²⁵—and addressed customers' concerns about firms' maintaining privacy of their financial information from potential trusted contact persons by using new account forms, supplemental forms, scripts and pop-up screens that guide registered representatives' conversations with customers.
- ▶ **Removing Trusted Contact Persons**—Firms advised registered representatives that they should not reach out to trusted contact persons who have been removed by the customer or those that the registered representative reasonably believes may be engaging in financial exploitation of the customer.
- ▶ **Updating Trusted Contact Persons**—Firms developed comprehensive policies and procedures for updating their customers' trusted contact person²⁶ and updated their forms or included a separate form as part of their annual account verification or confirmation process.
- ▶ **Guidance and Permissions**—Firms provided guidance to registered representatives regarding contacting trusted contact persons when placing a temporary hold²⁷ and added provisions to client agreements to permit firms to contact trusted contact persons and put temporary holds on disbursements.²⁸
- ▶ **Account Monitoring**—Firms leveraged advanced technologies to detect, prevent and predict potential diminished capacity or financial exploitation in senior investor accounts, including specialized senior investor-focused or existing fraud detection, anti-money laundering or Bank Secrecy Act account monitoring, surveillance reviews and exception reports, including but not limited to, those that focused on:
 - Transaction types that are inconsistent with prior account activity, such as wiring money out of an account or not paying regular bills;
 - Decreasing account balances; and
 - Access failures or access for new individuals or from new locations.

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The Helpline's work, regulatory initiatives, firm compliance programs and senior investor stories described in this report demonstrate the significance of protecting senior investors to the securities industry. FINRA remains committed to addressing risks relating to financial exploitation and providing relevant resources—such as this report—to firms and senior investors.

Appendix – Senior Investor Protection Resources

FINRA Resources

- ▶ [Senior Investors Topic Page](#)
- ▶ [FINRA Securities Helpline for Seniors](#)
- ▶ *Regulatory Notice 19-36* (FINRA Requests Comment on a Proposed Rule to Limit a Registered Person from Being Named a Customer's Beneficiary of Holding a Position of Trust for or on Behalf of Customer)
- ▶ *Regulatory Notice 19-27* (FINRA Requests Comment on Rules and Issues Relating to Senior Investors)
- ▶ *Regulatory Notice 17-11* (SEC Approves Rules Relating to Financial Exploitation of Seniors)
- ▶ [Protecting Seniors From Financial Exploitation](#) (April 25, 2018)
- ▶ [NASAA-SEC-FINRA Senior Safe Act Fact Sheet](#) (May 23, 2019)
- ▶ FINRA and SEC Office of Investor Education and Advocacy, [Please Consider Adding a Trusted Contact to Your Account](#) (March 4, 2020)
- ▶ [Report on the FINRA Securities Helpline for Seniors](#) (December 2015)

SEC Resources

- ▶ [SEC's Seniors Topic Page](#)
- ▶ [SEC's Investor.gov Seniors Topic Page](#)
- ▶ [SEC Division of Investment Management, Response of the Chief Counsel's Office to the Investment Company Institute](#) (June 1, 2018)
- ▶ SEC Office of the Investor Advocate, [How the SEC Works to Protect Senior Investors](#) (May 2019)
- ▶ [Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults](#)
- ▶ Investor Alerts
 - [Help for Adult Protecting Services \(APS\) Workers Encountering Senior Investor Fraud](#) (May 9, 2017)
 - [How to Avoid Fraud](#)
 - [Don't Invite Investment Scams to Find You](#) (Sept. 28, 2018)
 - [Ponzi Schemes Targeting Seniors](#) (April 9, 2018)
- ▶ Brochures
 - [Guide for Seniors: Protect Yourself Against Investment Fraud](#)
 - [Stopping Affinity Fraud in Your Community](#)

NASAA Resources

- ▶ [Serve Our Seniors Webpage](#)
- ▶ [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](#)

Financial Crimes Enforcement Network Resources (FinCEN)

- ▶ [Advisory to Financial Institutions on Filing Suspicious Activity Reports Regarding Elder Financial Exploitation](#) (February 2011)
- ▶ [FinCEN Advisory Warns of Elder Financial Exploitation](#) (February 2011)
- ▶ [Memorandum on Financial Institution and Law Enforcement Efforts to Combat Elder Financial Exploitation](#) (August 2017)

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)

Endnotes

1. An average of 10,000 Americans turn 65 every day and this pace is expected to continue through 2030 when one in every five people in the U.S. will be 65 or older. See U.S. Census Bureau, [Older People Projected to Outnumber Children for First Time in U.S. History](#) (Mar. 13, 2018).
2. See, e.g., Consumer Financial Protection Bureau, Office of Financial Protection for Older Americans, [Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends](#) (Feb. 2019) (highlighting that SAR filings on elder financial exploitation quadrupled from 2013 to 2017). See also U.S. Securities and Exchange Commission, Office of the Investor Advocate, [Elder Financial Exploitation](#) (June 2018) (providing an overview of studies on the prevalence of senior financial exploitation).
3. See, e.g., U.S. Securities and Exchange Commission, Office of the Investor Advocate and International Organization of Securities Commissions (IOSCO) [Senior Investor Vulnerability Final Report](#) (March 2018) (noting that social isolation and cognitive decline, among other factors, may make some senior investors more vulnerable to financial exploitation).
4. See FINRA's 2015 [Report on the FINRA Securities Helpline for Seniors](#).
5. All Helpline data provided in this report is as of December 31, 2019.
6. See [Matthew C. Mazcko](#), Letter of Acceptance, Waiver and Consent, Case ID 1888519 (Feb. 9, 2017).
7. See [Matthew Evan Eckstein](#), FINRA Office of Hearing Officers, Disciplinary Proceeding No. 2017054146302 (Aug. 28, 2018).
8. See Nassau County District Attorney, [\\$10 Million Ponzi Scheme Unraveled Following NCDA Investigation](#) (Sept. 18, 2018); Nassau County District Attorney, [NCDA Returns \\$4.6 Million to Ponzi Scheme Victims Following Prosecutions](#) (Oct. 29, 2019).
9. See Regulatory Notice [17-11](#) (SEC Approves Rules Relating to Financial Exploitation of Seniors).
10. See, e.g., [Regulatory Notice 07-43](#) (FINRA Reminds Firms of Their Obligations Relating to Senior investors and Highlights Industry Practices to Serve These Customers); [Regulatory Notice 09-42](#) (FINRA Reminds Firms of Their Obligations With Variable Life Settlement Activities); [Regulatory Notice 11-52](#) (FINRA Reminds Firms of Their Obligations Regarding the Supervision of Registered Persons Using Senior Designations); [Regulatory Notice 16-12](#) (FINRA Provides Guidance on Firm Responsibilities for Sales of Pension Income Stream Products); and [Regulatory Notice 17-11](#) (SEC Approves Rules Relating to Financial Exploitation of Seniors).
11. See [Regulatory Notice 19-27](#) (FINRA Requests Comment on Rules and Issues Relating to Senior Investors).
12. See [Ami Kathryn Forte](#) and [Charles Joseph Lawrence](#), Order Accepting Offer of Settlement, Case ID 2016049321302 (Oct. 21, 2019).
13. See [Jaime R. Rodriguez](#), Letter of Acceptance, Waiver and Consent, Case ID 2016051772601 (Aug. 28, 2017).
14. See, e.g., [The State of U.S. Financial Capability: The 2018 National Financial Capability Study; Exposed to Scams: What Separated Victims from Non-Victims?; Financial Fraud and Fraud Susceptibility In The United States](#).
15. See, e.g., resources on the [FINRA Senior Investors Topic Page](#); articles such as [Protecting Seniors from Financial Exploitation](#); and investor alerts such as [Seniors Beware: What You Should Know About Life Settlements](#).
16. See, e.g., investor alerts on [order types](#), [transfer on death accounts](#), [binary options](#) and [related scams](#), [required minimum distributions](#) and [powers of attorney](#).
17. See, e.g., [Taking Action: An Advocate's Guide to Assisting Victims of Financial Fraud](#).
18. See FINRA Rule [2165\(a\)\(1\)](#) (Financial Exploitation of Specified Adults) defines "specified adult" as "(A) a natural person age 65 and older; or (B) a natural person age 18 and older who the member reasonably believes has a mental or physical impairment that renders the individual unable to protect his or her own interests." FINRA Rule 2165.03 provides that "[a firm's] reasonable belief that a natural person age 18 and older has a mental or physical impairment that renders the individual unable to protect his or her own interests may be based on the facts and circumstances observed in the [firm's] business relationship with the natural person."
19. FINRA Rule [2165\(a\)\(4\)](#) defines "financial exploitation" as "(A) the wrongful or unauthorized taking, withholding, appropriation, or use of a Specified Adult's funds or securities; or (B) any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a Specified Adult, to: (i) obtain control, through deception, intimidation or undue influence, over the Specified Adult's money, assets or property; or (ii) convert the Specified Adult's money, assets or property."
20. FINRA Rule [2165](#) (Financial Exploitation of Specified Adults) provides a safe harbor from FINRA Rules [2010](#) (Standards of Commercial Honor and Principles of Trade), [2150](#) (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts) and [11870](#) (Customer Account Transfer Contracts).
21. See [Protecting Seniors from Financial Exploitation](#) (Apr. 25, 2018).
22. The proposed rule would not apply where the customer is a member of the registered person's "immediate family." See proposed FINRA Rule 3241(c); [Regulatory Notice 19-36](#) (FINRA Requests Comment on a Proposed Rule to Limit a Registered Person from Being Named a Customer's Beneficiary of Holding a Position of Trust for or on Behalf of Customer).

23. FINRA Rule [2165\(c\)\(1\)](#) (Financial Exploitation of Specified Adults) requires firms that intend to rely on the rule to “establish and maintain written supervisory procedures reasonably designed to achieve compliance with this Rule, including, but not limited to, procedures related to the identification, escalation and reporting of matters related to the financial exploitation of Specified Adults.” In addition, FINRA Rule [2165\(c\)\(2\)](#) (Financial Exploitation of Specified Adults) requires firms’ written supervisory procedures to “identify the title of each person authorized to place, terminate or extend a temporary hold on behalf of the member pursuant to this Rule” where such person “shall be an associated person of the [firm] who serves in a supervisory, compliance or legal capacity for the [firm].”
24. Some firms did not develop training programs addressing the requirements of the FINRA Senior Exploitation Rules. The safe harbor provided by FINRA Rule [2165](#) (Financial Exploitation of Specified Adults) requires that they “develop and document training policies or programs reasonably designed to ensure that associated persons comply with the requirements of this Rule.” See Supplementary Material .02 of FINRA Rule [2165](#) (Financial Exploitation of Specified Adults).
25. FINRA Rule [4512](#) (Customer Account Information) Supplementary Material .06 applies to all non-institutional customers regardless of age.
26. FINRA Rule [4512](#) (Customer Account Information) Supplementary Material .06(c) requires firms, for all accounts subject to the requirements of Exchange Act Rule 17a-3(a)(17), to “make reasonable efforts to obtain or, if previously obtained, to update where appropriate the name of and contact information for a trusted contact person consistent with the requirements of [Exchange Act] Rule 17a-3(a)(17).”
27. FINRA Rule [2165\(b\)\(1\)\(B\)](#) (Financial Exploitation of Specified Adults) requires that the firm “not later than two business days after the date that the [firm] first placed the temporary hold on the disbursement of funds or securities, provides notification orally or in writing, which may be electronic, of the temporary hold and the reason for the temporary hold to: ... (ii) the Trusted Contact Person(s), unless the Trusted Contact Person is unavailable or the member reasonably believes that the Trusted Contact Person(s) has engaged, is engaged, or will engage in the financial exploitation of the Specified Adult...” (emphasis added)
28. FINRA Rule [2165\(b\)\(1\)\(C\)](#) (Financial Exploitation of Specified Adults) requires that the firm “immediately initiates an internal review of the facts and circumstances that caused the member to reasonably believe that the financial exploitation of the Specified Adult has occurred, is occurring, has been attempted, or will be attempted.” (emphasis added)