

BACKGROUND

It is estimated that one in five Americans over the age of 65 have been victimized by fraud, with losses exceeding \$2.9 billion.¹ Roughly 10,000 Americans will reach age 65 every day for the next 19 years, and an expected 18 percent of the population will be over the age of 65 by the year 2030.² Older adulthood is a time of critical and complex decision-making, including important decisions regarding medical care, finances, estate planning and living conditions, among others. However, at a time of such critical thinking, normal, healthy aging includes disproportionate changes that may affect one's mental flexibility, planning, judgment, problem solving and decision-making. The issues related to the senior or vulnerable investor may be particularly significant for the municipal securities market, as a recent study shows that the average age of municipal securities investors is 61 and that a significant portion of all outstanding municipal securities are held by investors with an average age of 85.³

MSRB ACTIVITIES

The protection of senior investors is an important issue for the MSRB given the demographics of the typical municipal bond investor. As most of these individuals are close to or post-retirement age, they may be at a higher risk for diminished capacity and manipulation by heirs or may be an attractive target for unscrupulous financial professionals.

The MSRB's rules are designed to protect all investors, including senior and vulnerable investors.⁴ For example, the MSRB's fair practice rules require that dealers determine that the potential municipal investment is suitable for the investor. Other financial regulators have rules that also protect senior investors. For example, the Financial Industry Regulatory Authority (FINRA) is implementing a new rule to address the financial exploitation of seniors and other vulnerable adults.⁵ The rule would generally require financial services professionals to obtain contact information for a trusted contact person for a customer's account, and permit those professionals to place temporary holds on disbursements of funds or securities from an account where there is a reasonable belief that the customer is subject to financial exploitation.⁶ It is important to note that sales of certain municipal securities, such as interests in ABLE programs, which

¹ <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf>

² <http://www.pewresearch.org/daily-number/baby-boomers-retire/>

³ https://www.brookings.edu/wp-content/uploads/2016/07/WP20_Bergstresser_v2.pdf

⁴ For the purposes of this document, "vulnerable investor" follows the definition FINRA uses for "Specified Adult" in its proposed rule to mean: (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. <http://www.finra.org/industry/notices/15-37>

⁵ *Id.*

⁶ <https://www.sec.gov/rules/sro/finra/2017/34-79964.pdf>

are primarily are offered to vulnerable investors, would also be subject to the protections of the new FINRA rules.

Beyond the protection afforded by MSRB rules, the MSRB is proactively working with federal and state regulators to better understand the needs of senior investors and provide resources to assist these investors and their financial professionals in detecting and reporting fraud. In 2016, the MSRB hosted a panel as part of its Municipal Securities Regulator Summit exploring investor protection issues for seniors and vulnerable adults. Representatives from the North American Securities Administrators Association (NASAA), the U.S. Securities and Exchange Commission (SEC) and FINRA discussed regulatory efforts to address this important topic, which has led to broader industry discussions.⁷⁸

The MSRB has also developed a senior investor resource page within the market leadership tab on msrb.org,⁹ with the goal of assisting senior investors and their financial professionals in accessing pertinent information, tools and other resources from the MSRB, fellow regulators and applicable industry trade groups. The MSRB also provides educational materials that it has designed to help senior investors, including grandparents who may invest in a 529 college savings plan.¹⁰

⁷ <https://www.sec.gov/news/speech/investor-protection-in-the-municipal-securities-markets.html>

⁸ <http://www.bondbuyer.com/news/washington-taxation/sec-investor-advocate-worried-about-narrowing-of-muni-market-1112307-1.html>

⁹ <http://www.msrb.org/Market-Topics/Senior-Investor-Protection.aspx>

¹⁰ <http://www.msrb.org/msrb1/pdfs/MSRB-529-Investor-Guide.pdf>