

19 October 2015

Lynne Egan (MT) (legan@mt.gov)
Chair, Senior Issues/Diminished Capacity Committee
Patricia Struck (WI) (patricia.struck@dfi.wisconsin.gov)
Vice-chair, Senior Issues/Diminished Capacity Committee
Christopher Staley (cs@nasaa.org)
Counsel, NASAA

Via email

Re: Notice of Request for Comments Regarding NASAA's Proposed Model Legislation or Regulation to Protect Vulnerable Adults From Financial Exploitation

Dear Ms. Eagan, Ms. Struck and Mr. Staley:

CFA Institute¹ is pleased to comment on NASAA's proposed model legislation or regulation focused on protecting vulnerable adults from financial exploitation. CFA Institute represents the views of those investment professionals who are its members before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the efficiency, integrity and accountability of global financial markets.

As an organization with a strong interest in investor protections, we strongly support the efforts of NASAA to create a model (the Model Act) addressing suspected or actual financial fraud and abuse perpetrated on vulnerable adults, including the elderly. The Model Act, as we read it, provides legal safe harbor to investment advisers and other investment practitioners for alerting authorities of suspected financial exploitation perpetrated against elderly clients. We encourage adoption of this Model Act by states and that state securities regulators will use existing remedies to address such unconscionable practices.

We believe this Model Act sets an appropriate tone for enactment by the states in defining a reasonable scope for enforcement. Through our outreach efforts, we have become aware that much of the financial exploitation of this population is propagated by persons in positions of trust—be they family members or others with legal authority over them. Thus, we support extending its authority to all with the power of attorney and guardianship over the adults covered by the Model Act (Covered Adults). We also appreciate the explicit coverage to not only affirmative acts of exploitation, but also acts of omission that could reasonably be seen as taking advantage of the Covered Adults.

¹ CFA Institute is a global, not-for-profit professional association of more than 129,000 investment analysts, advisers, portfolio managers, and other investment professionals in 145 countries, of more than 123,300 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 146 member societies in 71 countries and territories.

We commend the inclusion of immunity provisions for those who have acted to protect the Covered Adults when they act in good faith and exercise reasonable care. Immunity from administrative or civil liability will provide additional security to those suspecting, but perhaps unable at the time to prove, that a Covered Adult may be a victim of financial exploitation.

We strongly support these efforts by NASAA to address financial exploitation of the elderly and other vulnerable citizens. Should you have any questions about our position, please do not hesitate to contact Kurt N. Schacht, CFA at kurt.schacht@cfainstitute.org, 212.756.7728 or Linda Rittenhouse at linda.rittenhouse@cfainstitute.org, 434.951.5333.

Sincerely,

/s/ Kurt N. Schacht

Kurt N. Schacht, CFA
Managing Director, Standards and
Financial Market Integrity
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/s/ Linda L. Rittenhouse

Linda L. Rittenhouse
Director, Capital Markets Policy
CFA Institute