



NASAA

# 2017 | 2018

## Activity Report

North American Securities Administrators Association

# Working Together to Protect Investors





# About NASAA

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Organized in 1919, the North American Securities Administrators Association (NASAA) is the oldest international organization devoted to investor protection. Its membership includes the securities regulators in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands; the provinces and territories of Canada; and Mexico.

State and provincial securities regulators have protected investors from fraud and abusive sales practices since Kansas passed the first “blue sky” law in 1911 and, the following year, Manitoba became the first Canadian province to approve securities legislation. In the United States, state securities regulation preceded federal securities laws, including the creation of the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA), formerly the NASD.

## ***NASAA’S VISION***

Protect investors from fraud and abuse; educate investors; support responsible capital formation; and help ensure the integrity and efficiency of financial markets.

## ***NASAA’S MISSION***

Represent and serve members through education, cooperation, coordination, communication, subject matter expertise and advocacy.

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# Leadership Message

This year marks the end of NASAA's first 100 years of service to its members, the state, provincial securities regulations in the United States, Canada and Mexico and their citizens. If the last century is any indication of the next 100 years, we can all be certain that change is in store for NASAA and the financial services industry we regulate

From a small two-person operation in Kansas to today's 22-person staff in our Washington, D.C. headquarters, and nearly 400 volunteers from member agencies throughout North America serving on committees and project groups, NASAA has grown into an organization that brings its members together to work on a shared mission to deliver a strong regulatory structure to help protect investors and promote capital formation.

As we prepare to commemorate NASAA's next century of service, know that NASAA's core mission will not change.

Our strength derives from a network of volunteers – public servants who have the best interests of investors at the core of their service.

As you'll read in this year's activity report, 2017-2018 has been a year of several "firsts" for NASAA. For example, in January, NASAA launched a successful series of webcasts to increase the reach of our distance learning program. In May, NASAA released its first annual report identifying the contours of the state-registered investment adviser population and the related regulatory activities of state securities regulators. Also in May, NASAA

announced the initial results of "Operation Cryptosweep," one of the largest coordinated series of enforcement actions by state and provincial securities regulators in the United States and Canada to crack down on cryptocurrency-related investment products. In June, NASAA's first Fintech Forum brought policymakers and industry experts to Washington, D.C. for an event webcast throughout North America and attended by nearly 500 either in-person or online.

One of NASAA's longstanding goals is to build upon and strengthen our work with fellow regulators to seek ways to collaborate in carrying out our mission to protect investors and the integrity of the financial markets. In May, NASAA took a significant step toward that goal by signing an agreement with the Commodity Futures Trading Commission to provide a framework for sharing confidential information between the CFTC and state securities regulators in the United States.

Another priority for NASAA and its members is the protection of senior investors from fraud and abuse. We are pleased that four additional states (Alaska, Kentucky, Minnesota, and Utah) enacted legislation this year based on NASAA's Model Act to Protect Vulnerable Adults from Financial Exploitation. To date, the model has inspired similar legislation in 18 jurisdictions.

The enforcement of securities laws is at the heart of what our members do. At times, NASAA assists these efforts by organizing task forces to focus on a particular matter. For example, NASAA established a task force with

Massachusetts and Alabama as lead states to investigate a securities firm's failure to establish and maintain reasonable policies and procedures to prevent the sale of unregistered, non-exempt securities to its customers. In May, NASAA announced a settlement of this matter, along with requiring the firm to repurchase from investors certain securities sold since October 2006 and to pay civil penalties that could total more than \$26 million. NASAA's 2018 enforcement survey showed that in 2017 members conducted more than 4,100 investigations, which led to nearly 1,700 enforcement actions, \$483 million ordered returned to investors and more than 800 years of jail time for securities law violators.

NASAA's existence is a testament to the importance of the collaborative relationship between regulators from jurisdictions in the United States, Canada and Mexico. As our regulatory challenges grow and evolve, NASAA will continue to focus on ensuring that the authority of our members is preserved. This vital enforcement function is an essential part of what state and provincial securities regulators across North America do on a daily basis.

As any local cop will tell you, the single most important relationship is with the community we are responsible to serve and protect. That community includes investors, the securities industry and small businesses seeking capital to grow their enterprises. Working hard and staying vigilant in identifying problems proactively is what we do best. And we will continue to work together toward solutions that foster innovation and protect investors.



***Joseph P. Borg (right), NASAA President and Alabama Securities Commission Director, and Michael S. Pieciak, NASAA President-elect and Vermont Financial Regulation Commissioner.***

**Joseph P. Borg**

*Alabama Securities Commission Director  
NASAA President 2017-2018*

**Michael S. Pieciak**

*Vermont Financial Regulation Commissioner  
NASAA President-elect 2017-2018*

# Working Together to Protect Investors

NASAA's mission is to represent and serve its members through advocacy, education, subject-matter expertise, communication and coordination as they protect retail investors from fraud and abuse. This year saw a significant focus on technology, from raising awareness of cryptocurrency-related investment products and cracking down on fraud, to working with the financial services industry and other regulators to better understand how financial technology is changing the landscape for investors, regulators and firms. The year also saw NASAA confront a significant threat to the ability of its U.S. members to provide the high level of protection investors expect and deserve.

## Balancing Financial Innovation and Retail Investor Protection

*“State and provincial securities regulators are working together to help retail investors understand the risks associated with emerging financial technologies. We recognize that these innovations may benefit investors, which makes appropriate regulation critical.”*

### **NASAA President Joseph Borg**

Financial technology (fintech) is a priority for NASAA and its members. Technology touches almost every aspect of our daily life, including how we use financial services. Fintech encompasses a wide range of tools designed to provide consumers and investors with greater convenience – think of mobile banking or algorithmic investment advisory services – as well as innovations like blockchain and cryptocurrencies.

While these new services and products may promise convenience and a greater variety of choices for investors and consumers, they also present significant potential for fraud or excess risk due to their technological sophistication, complexity, and, in some cases, unpredictability.

As has long been the case, investors benefit when regulators and industry work together to achieve balanced and effective solutions. This approach should be no different when it comes to fintech. In 2017, NASAA's Canadian members launched the Canadian Securities Administrators (CSA) Regulatory Sandbox Initiative to help support businesses seeking to offer innovative products, services and applications. In November 2017, securities regulators in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan announced a cooperation agreement with the Financial Services Regulatory Authority (FSRA) of Abu Dhabi Global Market. The agreement will allow the participating jurisdictions to refer innovative businesses to the others' markets. This agreement was followed in December with a similar agreement between securities agencies in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Québec, and Saskatchewan and the Australian Securities and Investments Commission.

A NASAA member survey released in 2018 underscores why regulators, industry and investors need to remain vigilant in navigating the many recent advances in financial technology. One-third of NASAA members surveyed said the rapid development of financial technology is positive for investors, while 20 percent expressed concern with the potential negative impact of fintech on investors. But nearly half indicated that it is still too soon to tell, citing benefits such as lower costs and greater accessibility to investments for groups underserved

# Focus on the Future

NASAA helped raise retail investor awareness about Initial Coin Offerings and cryptocurrencies through an easy-to-understand animated video and two investor advisories.



by traditional investment channels, while cautioning that sufficient investor protections must be in place to prevent this easier access from leading to greater exposure to risk or fraud.

Through media and public outreach, NASAA brought a regulatory message of retail investor protection to the national and international discussion about cryptocurrencies in late 2017 and throughout 2018. NASAA produced a short animated video, "Get in the Know About ICOs," which has been viewed more than 3,400 times since its October 2017 release. In December, NASAA repeated its 2014 warning of virtual currencies by including cryptocurrencies in its annual list of top investors threats. This warning caught the attention of producers for CNBC's influential PowerLunch program, who invited NASAA President Joseph Borg to appear on the broadcast. The resulting media coverage of President Borg's warnings, made at the peak of the cryptocurrency market, spanned the globe.



NASAA President Joseph Borg introduces a regulatory message of retail investor protection to the cryptocurrency discussion with an interview on CNBC.

# Working Together to Protect Investors

In January 2018, NASAA again took steps to raise awareness of the potential risk of cryptocurrency-related investment products, prompting SEC Chairman Jay Clayton and Commissioners Kara Stein and Michael Piwowar to salute the efforts of NASAA and its members. “We commend the North American Securities Administrators Association (NASAA) on their release highlighting important issues and concerns related to cryptocurrencies, initial coin offerings (ICOs) and other cryptocurrency-related investment products,” their statement said. “NASAA’s release is a timely and thoughtful reminder to Main Street investors to exercise caution.”

State and provincial securities regulators also committed significant regulatory resources to educate investors and remind industry participants as to their regulatory responsibilities.

## Operation Cryptosweep

NASAA members followed the investor awareness campaign with a large coordinated series of enforcement actions by state and provincial securities regulators in the United States and Canada.

“Despite a series of public warnings from securities regulators at all levels of government, cryptocriminals need to know that state and provincial securities regulators are taking swift and effective action to protect investors,” NASAA President Borg said during a news conference announcing the launch

of the ongoing “Operation Cryptosweep.” The ongoing initiative has resulted in more than 200 active investigations and nearly 50 enforcement actions related to ICOs or cryptocurrencies since May.

Securities regulators at all levels of government in the United States, Canada, and elsewhere are stepping up and intensifying regulatory and investor education initiatives around financial technology. NASAA recognizes that a strong and united effort from regulators and industry can make a real difference in providing a regulatory framework that enables new technologies to flourish while providing investors with the protections they deserve. In 2018, NASAA focused efforts to explore new ways to provide resources for regulators and industry members to address fintech issues.

## Fintech Forum

To support this effort, NASAA held its inaugural Fintech Forum under the guidance of its new board-level Financial Technology Committee, chaired by President-elect Michael Pieciak. Held in May, the forum brought together stakeholders from state, provincial and federal regulatory agencies, and the financial services industry.

***NASAA Enforcement Section Chair and New Jersey Bureau of Securities Chief Christopher Gerold announces Operation Cryptosweep at a Washington, D.C. news conference.***





# Focus on the Future



***Pennsylvania Secretary of Banking and Securities Robin Wiessmann moderates a blockchain discussion at NASAA's Fintech Forum.***

"We are committed to continue working as collaboratively as we can so that we are all better equipped to work toward solutions that promote both innovation and investor protection," NASAA President-elect Michael Pieciak said to open the forum. NASAA members participating as moderators or panelists included representatives of the Quebec Autorité des marchés financiers, Tennessee Department of Commerce and Insurance, Massachusetts Securities Division, and the Pennsylvania Department of Banking and Securities. Other participants included representatives of the Conference of State Bank Supervisors, U.S. Securities and Exchange Commission (SEC), U.S. Commodity Futures Trading Commission (CFTC), FINRA and SIFMA.

In a demonstration of NASAA's commitment to collaboration, the Fintech Forum opened with the signing of an agreement with the CFTC to establish a closer working relationship between the federal commodity regulator and individual state securities agencies. The agreement is intended to provide a framework for sharing confidential information between the CFTC and state securities regulators in the United States. "Information sharing is key to cooperative enforcement operations, and by working together, we can ensure that the rapidly evolving financial technology space has the appropriate oversight to pursue bad actors, protect market participants, and allow for market-enhancing innovation," CFTC Chairman Christopher Giancarlo said.



***CFTC Chairman Christopher Giancarlo (left) and NASAA President Joseph Borg at the MOU signing ceremony in Washington, D.C.***

# Working Together to Protect Investors

Internally, NASAA continues working to harness technology to broaden the reach of its distance education program for members.



In 2018, under the guidance of NASAA's Professional Development Committee chaired by Maine Securities Administrator Judith Shaw, NASAA launched an innovative series of webcasts for members. Through August, these webcasts have reached nearly 2,400 viewers with topics such as cryptocurrencies, initial coin offerings, broker-dealer examinations, franchise regulation, enforcement matters, and anti-money laundering.

## Fall and Spring Meetings

In addition to the Fintech Forum, NASAA's two primary events — the fall and spring meetings — focused on the revolution in financial services technology and the challenges confronting regulators and industry alike.

NASAA's Annual Meeting, chaired by Washington Securities Director William Beatty, was held in September 2017 in Seattle. The meeting explored how disruptors and innovators are using new technologies to change the delivery and reach of financial services, and how industry and regulators are adapting to the rapid pace of change.

The meeting's first discussion, moderated by Frank Borger-Gilligan, Tennessee's Assistant Commissioner for Securities, focused on innovative approaches in using technology for raising capital, investing, and managing money. The second panel, moderated by Wisconsin Securities Administrator Leslie Van Buskirk,

examined how firms are managing the rapid pace of change and working to integrate these technologies into their operations. The final panel, moderated by then-Delaware Investor Protection Director Gregory Strong, explored how advances in technology have extended the reach of both regulators and fraudsters.

NASAA's Spring Public Policy Roundtable focused on cryptocurrency enforcement and current issues in securities arbitration, including unpaid arbitration awards, a key issue of concern for NASAA and its membership. NASAA President-elect Pieciak and Illinois Securities Director Tanya Solov led the discussion on these topics.



***Wisconsin Securities Administrator Leslie Van Buskirk leads a discussion of how financial services firms are managing the rapid pace of change and working to integrate these new technologies into their operations. Also pictured is Jennifer Klass, a Partner at Morgan Lewis & Bockius LLP.***

# Focus on the Future

## Preserving State Regulatory Authority

*“While state regulators are judicious in exercising their enforcement authority against publicly traded companies, states’ authority to pursue enforcement activity against issuers of securities — and to do so independently when appropriate, is a major deterrent to fraud and one of many reasons investors have confidence in America’s capital markets.”*

### *NASAA President Joseph Borg*

NASAA’s leadership, and government affairs, legal, and communications teams devoted considerable attention in 2017 and 2018 to supporting the regulatory authority of members, whether in Congress or the courts.

State securities laws keep criminals from harming people and these laws have served investors well. State securities regulators have returned hundreds of millions of dollars to hard-working Americans and thousands of fraudsters have been sent to jail for their misconduct. These efforts help protect U.S. financial markets so entrepreneurs and small businesses can raise money to grow their businesses. Unfortunately, this important investor protection authority came under attack by some in Congress in 2018.

A bill under consideration by the House Financial Services Committee, H.R. 5037, the “Securities Fraud Act of 2018,” would expose Main Street investors to more fraud and abuse by tying the hands of state securities regulators. If the bill becomes law, state securities regulators would be prevented from bringing certain types of

antifraud actions. Investors who lost money in these cases would instead have to rely solely on federal regulators, who may be unable to devote resources to their cases. In June, NASAA President Borg testified before a subcommittee of the House Financial Services Committee and urged Congress to reject H.R. 5037.

“This bill is bad news for the SEC, which is already underfunded, and for the federal court system that has a backlog of cases that would only get worse under this bill. More importantly, it’s bad news for mom and pop investors, as it means many cases of alleged wrongdoing will take longer to investigate, or worse yet, may never be prosecuted,” Borg said. “On the other hand, it’s good news for companies and individuals who may engage in wrongful conduct.”



**NASAA President Joseph Borg testifies in support of maintaining strong regulatory authority for NASAA’s U.S. members during a congressional hearing in June.**

# Working Together to Protect Investors

## Providing a Strong Regulatory Foundation

NASAA's leadership, committees, and legal department work together to develop proposed model rules and to weigh in on rules under consideration by federal agencies and SROs. NASAA regularly comments on SEC and FINRA rule proposals and develops model rule proposals for adoption by individual jurisdictions. NASAA also represents the membership's position as amicus curiae in significant cases involving the interpretation of the securities laws.

Standards of care for broker-dealers and investment advisers continues to be a central focus of NASAA. Following an order in March 2018 by the U.S. Court of Appeals for the Fifth Circuit vacating the Department of Labor's conflict of interest rule, the SEC moved forward with a proposal to address standards of care for broker-dealers and investment advisers. NASAA's leadership has engaged in discussions with the SEC's commissioners and staff regarding the agency's proposed "Regulation Best Interest." In an August 23, 2018 comment letter, NASAA outlined its support of the SEC's efforts to elevate the current suitability standard for broker-dealers and address practices by investment advisers that may not be consistent with their fiduciary duties. "We believe the Commission's approach of raising the standard for broker-dealers, while not weakening the current standard applicable to investment advisers, is the correct one," NASAA President Borg wrote. "NASAA supports the Proposals' effort to address conflicts of interest, improve fee transparency, restrict the use of potentially misleading professional titles, and clarify investment adviser conflict of interest obligations."

While the SEC's proposals represent a good initial step, "significant improvements are needed in order to promulgate final rules that will serve the best interest of investors as the Commission intends," Borg wrote.

In another regulatory area of interest for NASAA and its members, NASAA expressed support, with some recommended enhancements, for FINRA's proposed rule amendments that would impose additional restrictions on member firms that employ brokers from firms with histories of past misconduct. High-risk brokers are a perennial problem for investors. NASAA members continue to bring enforcement actions against bad actors in the brokerage industry. "Expelling bad actors from the industry and reining in the activities of negligent or irresponsible brokers serves the interests of investors and the law-abiding businesses and securities professionals that endeavor to comply with applicable securities laws and regulations," NASAA President Borg wrote in an August 2018 comment letter to FINRA.

In a December 2017 comment letter, NASAA urged FINRA to strengthen its proposed rule addressing unpaid securities arbitration awards. NASAA members regulate FINRA-registered broker-dealers and agents, contributing to the longstanding and multifaceted collaborative regulatory relationship between NASAA and FINRA. Improving investors' ability to collect damages owed by broker-dealers contributes to investor protection. Currently, however, unpaid arbitration awards remain an unresolved and well-documented investor protection concern. In the comment letter, NASAA President Borg wrote, "Solving the issue of unpaid arbitration awards remains a priority for NASAA. [...] While NASAA supports the proposed amendments, they only partially address the issues related to unpaid arbitration awards. The proposed amendments are far from a solution to the FINRA arbitration award problem, and significantly more work is needed to remedy this issue."

# Focus on the Future

## NASAA Model Rules and Statements of Policy

NASAA formulates model rules and statements of policy for its members to promote and encourage regulatory uniformity. Model rules and statements of policy are prepared by the relevant committee and subject to both internal and external comment. Upon the Board's approval, the proposed statement of policy or model rule is put before the membership for adoption.

### **ADOPTED: Amendment to the Unethical Business Practices of Investment Advisers, Investment Adviser Representatives, and Federal Covered Advisers Model Rule to Include Investment Adviser Account Access Under the Uniform Securities Acts of 1956 and 2002**

NASAA amended its model investment adviser professional conduct rules under the Uniform Securities Acts of 1956 and 2002. This amendment addresses the practice of investment advisers and investment adviser representatives accessing various client accounts with the clients' own unique identifying information (such as username and password), rather than accessing these accounts through a separate log-in created for the adviser. As many investment advisers need access to a host of different client retirement accounts, brokerage accounts, and other online accounts to inform their advice, some advisers accept or specifically ask clients for the clients' own usernames and passwords to access the clients' accounts online. When an investment adviser accesses a client's account in this manner, the investment adviser is in effect impersonating the client and has the same access to the account as the client. There are multiple concerns with this type of access, including but not limited to the potential for fraud, custody and recordkeeping obligations and violations of the clients' own user agreements with the online companies.

### **ADOPTED: Revision to NASAA Corporate Securities Definitions Statement of Policy**

The definitions were placed in alphabetical order and a few other editorial changes were made. The substantive changes include deleting the definition of "Insolvent," which was replaced by the definition for "Unsound Financial Condition." A conforming amendment to the definition of "Promoter's Equity Investment" was made to reflect prior amendments to that NASAA Statement of Policy. The definitions of "Selling Expenses" and "Underwriting Expenses" were merged into a single definition.

### **ADOPTED: Revision to NASAA Loans and Other Material Transactions Statement of Policy**

Proposed revisions to this statement of policy were primarily in response to comments received from the ABA Regulation A+ Working Group, which objected to including "counsel" among those who are required to make representations in the disclosure document. Generally, under federal securities laws, counsel is not obligated to affirmatively perform due diligence concerning disclosures in offering materials. The provision was amended to remove the need for these representations from counsel. The independent director provision within Section VI also was revised to provide that if the issuer only has two independent directors on its Board, both must be disinterested in — and approve of — loans or other material affiliated transactions. Finally, the policy was reorganized to improve readability.

# Working Together to Protect Investors

## **ADOPTED:** Revision to Underwriting and Selling Expenses, Underwriter's Warrants, and Selling Security Holders Statement of Policy

The definitions of "Selling Expenses" and "Underwriting Expenses" were merged and the separate limits of 20 percent for selling expenses and 17 percent for underwriting expenses were merged into a single overall limit of 17 percent. This change was implemented to make the policy less complex and avoid potential confusion. Revisions to the valuation formula of underwriter's warrants were made in order to comport with FINRA's proposed change to the valuation methodology within FINRA Rule 5110.1. The revision allows the issuer to choose the valuation methodology they wish to use, but the issuer must file with the Administrator a description of the methodology chosen demonstrating the method is commercially available and appropriate for the warrants under valuation. If the issuer does not choose their own valuation method, they must use the formula provided within the policy.

## **PROPOSED:** Model Rule to Designate Nationally Recognized Securities Manuals for Purposes of the Manual Exemption

This proposed model rule would designate certain sources as nationally recognized securities manuals or their electronic equivalent for purposes of the "manual exemption" from registration under state law. This proposed model rule is intended to address issues that have arisen as a result of the discontinuing of the manual previously published by Standard & Poor's.

## **PROPOSED:** Proposed Model Rule to Exempt Secondary Trading in Securities Issued by Regulation A-Tier 2 Issuers

This proposed model rule would provide two routes to exempt secondary trading in securities that have previously been sold in an offering under Tier 2 of Regulation A and where the issues remain current in their ongoing reporting requirements under federal law. This proposed model rule also would facilitate secondary trading in securities of issuers about which there is certain publicly available information about the issuer.

## **PROPOSED:** New State Cover Sheets to Franchise Disclosure Documents

The proposal requires the addition of a new page, titled "How to Use this Franchise Disclosure Document." This page would give prospective franchisees clear and readable directions about how to use a Franchise Disclosure Document to find answers to common franchise questions. The proposal also requires a second page, titled "What You Need to Know About Franchising, Generally." This page includes information about franchising that many prospective franchisees may not appreciate until after they have entered a franchise relationship. The proposal also includes new instructions for a third page, titled "Special Risks to Consider about This Franchise," which would replace the current State Cover Page.

## Snapshot:

### Strong State Oversight of Investment Advisers and their Representatives

State-registered investment advisers are in almost every town in every state across the country. They are typically one-to-two person shops staffed exclusively with licensed professionals.

States securities regulators have oversight responsibility for investment adviser firms with assets under management of \$100 million or less. States also have sole regulatory oversight of all investment adviser representatives (IARs), the financial professionals who work directly with retail investors, whether the adviser is registered with a state or with the SEC.



In 2018, NASAA's Investment Adviser Section published the first comprehensive report detailing the contours of the state-registered investment adviser population and the related regulatory activities of state securities regulators.



Top 10 States with Most IARs

17,700

Approx. Number of State-Registered Investment Advisers (firms)

350,000

Approx. Number of State-Registered Investment Adviser Representatives (IARs)

# Working Together to Protect Investors

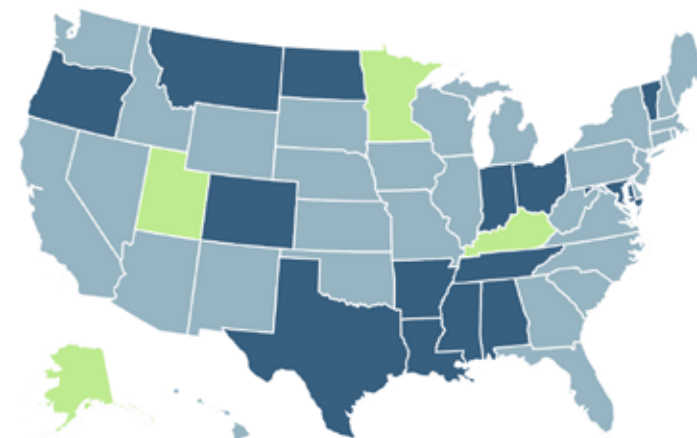
## Snapshot: Providing Strong Protections For Seniors and Vulnerable Adults



In 2018, four U.S. jurisdictions enacted legislation based on or inspired by the NASAA Model Act to Protect Vulnerable Adults From Financial Exploitation, bringing the number of jurisdictions doing so to 18.

Adopted by NASAA members in 2015, the NASAA model act gives industry participants and state regulators new tools to help detect and prevent financial exploitation of vulnerable adults.

The act mandates reporting to a state securities regulator and state adult protective services agency when a financial services professional has a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred.

The act also authorizes disclosure to third parties in instances where an eligible adult has previously designated the third party to whom disclosure may be made. Importantly, the act directs that disclosures may not be made to the third party if the qualified individual suspects the third party of being involved in the financial exploitation.



-  Jurisdictions that enacted legislation based on the NASAA model act in 2018.
-  Jurisdictions that enacted legislation based on the NASAA model act in 2016-2017.

*“NASAA members are committed to protecting seniors and other vulnerable adults from financial exploitation.”*

**Joseph P. Borg | NASAA**



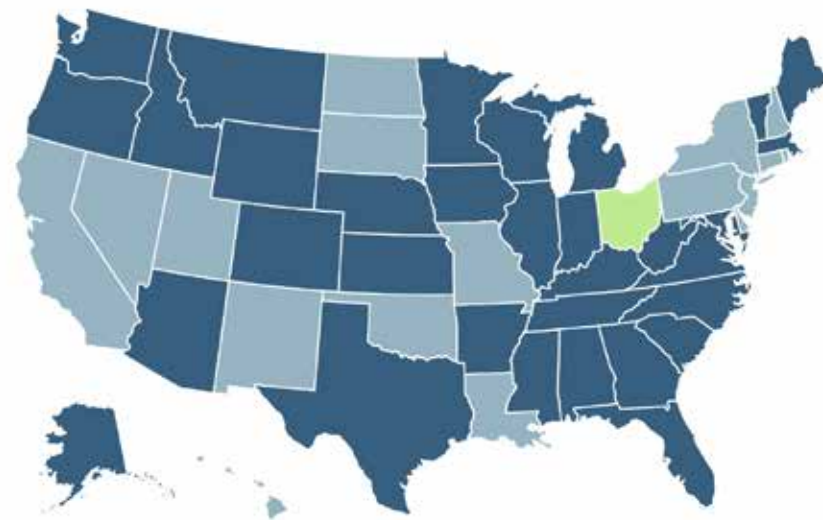
## Snapshot:

### Promoting Regulatory Frameworks for Capital Formation and Investor Protection

As technology changes the way companies raise capital, NASAA and its members strive to promote efficient regulatory frameworks for effective capital formation while maintaining strong investor protections.

Thirty-five U.S. jurisdictions have enacted exemptions within a framework established under federal law that allow local small businesses and entrepreneurs to use intrastate equity crowdfunding to help grow their businesses and tap into the potential investing crowd within their state's borders.

In 2018, NASAA held its fourth Capital Formation Roundtable in Washington, D.C. The event brought together stakeholders from the United States and Canada to discuss how state and provincial securities regulators can work more cooperatively and effectively with investors, the regulated community, and advocates in shaping the future of state and provincial capital formation.



#### Intrastate Crowdfunding Helps Small Businesses



# Working Together to Protect Investors

## Snapshot:

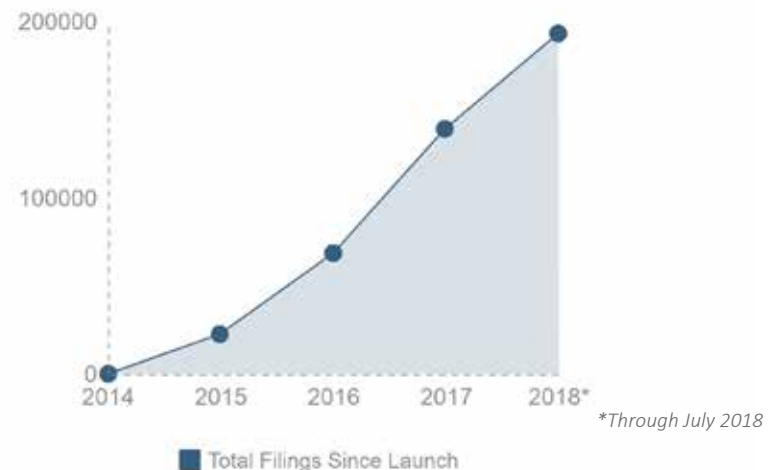
### Harnessing Technology for Greater Efficiencies and Investor Protection

#### NASAA's Electronic Filing Depository

NASAA's Electronic Filing Depository (EFD) is an online system that facilitates the filing of Form D for Regulation D, Rule 506 offerings with state securities regulators.

EFD is modernizing and streamlining the process for such notice filings with state securities regulators. Forty-seven U.S. jurisdictions are using EFD, including 12 that mandate its use for Form D filings. Since its launch in December 2014, NASAA's EFD system has been used to process **nearly 200,000 notice filings** (including initial filings, amendments, terminations and renewals) with state securities regulators. **By mid-2018 nearly 54,000** filer-initiated Form D notices have been processed on EFD (including initial filings, amendments, terminations and renewals).

Cumulative EFD Notice Filings



*“Our Electronic Filing Depository is providing efficiencies for issuers to help meet state Form D filing requirements. At the same time, EFD is strengthening investor protection by providing increased transparency of Form D filings.”*

**Michael S. Pieciak | NASAA President-Elect**

# NASAA SECTION COMMITTEE ACTIVITY

Broker-Dealer  
Corporation Finance  
Enforcement  
Investment Adviser  
Investor Education

# Broker-Dealer

## Overview

*The Broker-Dealer Section focuses on the operations of broker-dealers and agents including sales practices and products. In addition, securities sold by broker-dealers on bank premises, activities of clearing firms, continuing education issues, and customer dispute resolution are monitored by this section. The point-of-sale contact with investors makes this section's activities critical in fulfilling states' investor protection role.*

## Highlights

The Section undertook several initiatives, including working collaboratively with the Investment Adviser Section to develop examination materials targeting “reverse churning,” the inappropriate switching by a financial services firm of a customer’s account from a commission-based to fee-based structure.

- The **Arbitration Project Group** drafted a comment letter in response to FINRA Regulatory Notice 17-33, supporting the proposed rule amendments, which would provide investors additional flexibility in their pursuit of arbitration claims against inactive broker-dealers. The project group also assisted in drafting NASAA’s response to FINRA Regulatory Notice 18-06, supporting additional arbitration disclosures as part of FINRA’s new and continuing membership application processes.
- The **Investment Products and Services Project Group** continued working with broker-dealers to bring them into compliance with the NASAA model fee table. The project group worked to make information about the model fee table more accessible to the public through the NASAA website. The project group also finalized a report on senior issues and conducted a survey of broker-dealer practices related to the use of leveraged and inverse exchange-traded funds.
- The **Operations Project Group** undertook the biennial coordinated broker-dealer examinations and recommended best practices for broker-dealers.
- The **Market and Regulatory Policy and Review Project Group** focused its attention on broker-dealer errors and omissions insurance and a review of broker-dealer IRA rollover practices.
- The **Variable Annuities Project Group** updated investor education materials related to variable annuities and other resources.
- The **Continuing Education Project Group** continued working with FINRA, the SEC and other stakeholders on the development of broker-dealer continuing education, including implementing changes to continuing education programs in response to FINRA rule changes.

## 2017-2018 Section Committee

Frank Borger-Gilligan (TN), Chair  
Leslie Van Buskirk (WI), Vice-Chair  
Alex Glass (IN)  
Lee Kell (FL)  
Claire McHenry (NE)  
Brett Olin (MT)  
Chris Besko (MB), Canadian Liaison  
Christopher Staley (NASAA), Liaison  
Zachary Knepper (NASAA), Liaison

## 2017-2018 Project Group Chairs

### Arbitration

Joseph Punturo (NY)

### Continuing Education

Linda Bailey (TX)

### Investment Products & Services

Deborah Fabritz (WI)

### Market & Regulators Policy and Review

Amanda Senn (AL), Chair  
Kristen Standifer (WA), Co-Chair

### Operations

Klem Klementon (CT)

### Variable Annuities

Mark Kissler (WA)

# Corporation Finance

## 2017-2018 Section Committee

William Beatty (WA), Chair  
Peter Cassidy (MA), Vice-Chair  
Faith Anderson (WA)  
Mark Heurman (OH)  
Jeff Soderstedt (PA)  
Jo-Anne Matear (ON), Canadian Liaison  
Mark Stewart (NASAA), Liaison

## 2017-2018 Project Group Chairs

### Business Organizations & Accounting

Michelle Webster (WA)

### Corporation Finance Policy

Dennis Britson (IA)

### Corporation Finance Training

Peter Cassidy (MA)

### Direct Participation Programs Policy

Mark Heurman (OH)

### Franchise & Business Opportunities

Dale Cantone (MD)

### Small Business/Limited Offerings

Faith Anderson (WA)

## Overview

*The Corporation Finance Section develops and monitors policies for the registration of securities under state law, including updates to NASAA Statements of Policy. The section develops model rules and forms and provides oversight of the various NASAA-sponsored coordinated review programs for securities registration. The section also provides guidance to the states that regulate franchise offerings through its Franchise and Business Opportunities Project Group.*

## Highlights

Much of the section's activities focused on ensuring that any proposed federal legislation regarding capital formation did not preempt the regulatory authority of state securities regulators.

- The **Business Organizations and Accounting Project Group** worked on drafting a new Statement of Policy for Business Development Company (BDC) offerings and created an industry advisory board to assist in the process.
- The **Corporation Finance Policy Project Group** focused attention on reviewing the NASAA Statement of Policy Regarding Promotional Shares and on peer-to-peer lending matters. The project group continued its work to update and develop materials to assist corporation finance examiners.
- The **Direct Participation Programs Policy Project Group** worked collaboratively with the Business Organizations and Accounting Project Group on their project of drafting BDC guidelines. The project group is monitoring the current regulatory landscape in response to comments received on its Non-Traded REIT Concentration Limit Proposal.
- The **Small Business/Limited Offerings Project Group** prepared and released for comment two proposed model rules that would facilitate secondary trading in securities of issuers about which there is certain publicly available information about the issuer. The project group also focused attention on the SCOR form and NASAA's SCOR Statement of Policy/Program.
- The **Franchise and Business Opportunities Project Group** developed and released for comment a proposal to revise the instructions in the NASAA Franchise Registration and Disclosure Guidelines for filing the state cover page to Franchise Disclosure Documents. The project group also presented two webinars on franchising issues for NASAA members and is developing a "review checklist" for financial performance representations to assist examiners with their reviews based on guidance issued within the NASAA FPR Commentary.
- The **Corporation Finance Training Project Group** continued its work on the Corporation Finance Training Program, scheduled to take place in November 2018.

# Enforcement

## Overview

The Enforcement Section assists NASAA members in coordinating enforcement efforts involving multiple jurisdictions and facilitating the sharing of information and leveraging the resources of members more efficiently. This section also acts as a point of contact for other federal agencies and self-regulatory organizations such as the SEC and FINRA. In addition, this section helps identify new frauds and publishes an annual comprehensive report on state and provincial enforcement activity.

## Highlights

Much of the section's activities centered on supporting a multi-jurisdictional enforcement investigation led by NASAA members in Alabama and Massachusetts. Section and project group members undertook a leadership role in organizing NASAA members in a coordinated international initiative to identify cryptocurrency and initial coin offerings for investigation and bring enforcement actions related to these activities. The section also developed the annual NASAA Enforcement Report based on information collected from NASAA members.

- The new **Commodities and Derivatives Project Group** was launched and staffed and has begun researching issues related to state enforcement of the Commodity Exchange Act and state commodity codes. The project group began work to implement a Memorandum of Understanding with the CFTC and establish regular information sharing protocols with the CFTC related to potential commodities matters that may be of interest to NASAA members.
- The **Enforcement Training Project Group and Deposition & Litigation Skills Project Group** planned and executed the annual enforcement and deposition skills training in January 2018. The training was well attended and received high praise from participants.
- The **Enforcement Technology Project Group** prepared three NASAA webinars on cryptocurrencies and ICOs, multi-level marketing schemes, and investigative techniques.

## 2017-2018 Section Committee

Christopher Gerold (NJ), Chair (*since May 2018*)  
Keith Woodwell (Utah), Chair (*through April 2018*)  
Joseph Rotunda (TX), Vice-Chair  
Patrick Ahearn (MA)  
Jesse Devine (NY)  
Ricky Locklar (AL)  
Jake van der Laan (NB)  
Jason Roy (MB), Canadian Liaison  
A. Valerie Mirko (NASAA), Liaison  
Christopher Staley (NASAA), Liaison

## 2017-2018 Project Group Chairs

### Commodities & Derivatives Enforcement

David Cheval (CO)

### Deposition & Litigation Skills Training

Don Young (AB)

### Enforcement Publications & Manuals

Harvey McClesky (OH)

### Enforcement Technology

Jake van der Laan (NB)

### Enforcement Training

Jeffrey Spill (NH), Co-Chair  
Tracy Meyers (SC), Co-Chair

### Enforcement Zones

Rhea Babcock (CO)

# Investment Adviser

## 2017-2018 Section Committee

Andrea Seidt (OH), Chair  
Linda Cena (MI), Vice-Chair  
William Carrigan (VT)  
Lisa Hopkins (WV)  
Noula Zaharis (GA)  
Susan Pawelek (ON), Canadian Liaison  
Rosa Alejandra Avila Hernandez (MX), Mexico Liaison  
Zachary Knepper (NASAA), Liaison  
A. Valerie Mirko (NASAA), Liaison  
Christopher Staley (NASAA), Liaison

## 2017-2018 Project Group Chairs

### IA Cybersecurity & Technology

Amanda Senn (AL)

### IA Operations

Michael Huggs (MS)

### IA Regulatory Policy & Review

Elizabeth Smith (WA)

### IA Resources & Publications

Alex Glass (IN)

### IA Training

Lindy Streit (AR), Co-Chair  
Denise Walker (WV), Co-Chair

### IA Zones

Veronica Rodriguez (CO)

## Overview

NASAA's Investment Adviser Section monitors the state regulation of firms and professionals in the investment advisory business. The section's work includes developing model rules and policies for use by states in regulating small and mid-sized investment advisers. The section also provides technical support for state investment adviser examinations and manages the biennial investment adviser coordinated examinations survey.

## Highlights

The Section Committee made investment advisory fees a priority area of research in 2018 and continues to actively compile data using a variety of sources and approaches. Interest areas include: the fee impact resulting from brokers switching accounts from commission to advisory; the emergence of flat, retainer, and other fee arrangements that transition away from traditional AUM models; and simplified and more uniform fee disclosures. The Section Committee also oversaw the development of NASAA's first comprehensive report on state-registered investment advisers and their representatives and continues to monitor developments related to robo-advisors. Most recently, the Section Committee provided policy and research support relating to NASAA's views and comment letter on the SEC's proposals impacting standards of care for broker-dealers and investment advisers.

- The **IA Operations Project Group** organized NASAA's inaugural member webinar with a presentation on new risk analysis tools, pre-exam questions, and performance calculation tools for state examiners. The group also completed whitepapers for member use on unethical business practices and false or misleading designations.
- The **IA Regulatory Policy and Review Project Group** helped NASAA adopt a model rule responding to the problematic practice of investment advisers and investment adviser representatives accessing various client accounts with the clients' own unique identifying information (such as username and password).
- The **IA Resources and Publications Project Group** completed the inaugural edition of NASAA's Annual Investment Adviser Report, highlighting the work of state regulators in 2017.
- The **IA Training Project Group** executed a successful IA Training event in April 2018 with more than 130 member attendees. The group is exploring a potential webinar focused on adviser fee practices.
- The **IA Zones Project Group** continues to work with the Cybersecurity and Technology Project Group to explore ways to cyber-certify state examiners.
- The **Cybersecurity and Technology Project Group** is developing a tool for use by state-registered advisers in conjunction with NASAA's cybersecurity checklist and collaborated with NASAA's board-level Cybersecurity Committee to plan and participate in panels for the 2018 Cybersecurity Roundtable, to be held on October 15.

# Investor Education

## Overview

The Investor Education Section works to develop investor education materials for NASAA and its members. Efforts involve raising awareness of specific types of securities frauds or products, developing investor outreach programs, tools, and content for use by NASAA members, and planning training for NASAA member investor education coordinators.

## Highlights

- The **Alerts and Advisories Project Group** produced investor advisories on binary options, unicorns (pre-IPO companies), cryptocurrencies and initial coin offerings. Three additional advisories are planned for 2018. The Project Group also continues plans to translate its advisories into Spanish and other languages.
- The **Digital Media Tools and Resources Project Group** created resources to support investor education coordinators in their online outreach. Of note was the development of the “*Get in the Know About ICOs*” animated video. This short video has been very well received by fellow regulators and the public and has been referenced in the media, notably by *Forbes* magazine. The project group is developing additional videos in the series and continues to develop other online outreach products, including the monthly *so.me* e-newsletters and themed social media post templates for NASAA and IECs to use on their social channels.
- The **Life Stages Project Group** developed and provided to NASAA members the 2018 Investor Education Resource Calendar. The project group continues its work to develop toolkits to assist members in their outreach efforts targeting Generation X and military personnel and their families. Additionally, the project group is focusing attention on millennial outreach through the development of a podcast series and social media.
- The **Senior Outreach Project Group** focused on the creation of a new toolkit for law enforcement/first responders and, developed two additions to the “Conversation Starters” series. The first helps investment adviser representatives and broker-dealer agents address opioid addiction/financial exploitation with clients. The second focuses on guardianship/financial exploitation. The project group also developed a new resource to raise awareness of the red flags of guardian abuse.

## 2017-2018 Section Committee

Lynne Egan (MT), Chair (since June 2018)  
Karen Tyler (ND), Chair (through May 2018)  
Diane Young-Spitzer (MA), Vice-Chair  
Bernice Geiger (NM)  
Tina Kotsalos (PA)  
Marissa Sollows (NB)  
Robert Webster (NASAA), Liaison  
Zachary Knepper (NASAA), Liaison

## 2017-2018 Project Group Chairs

### Alerts & Advisories

Diane Young-Spitzer (MA)

### Digital Media Tools & Resources

Marissa Sollows (NB)

### Life Stages

Tina Kotsalos (PA)

### Senior Outreach

Bernice Geiger (NM)



# NASAA Board of Directors



**Joseph P. Borg**  
NASAA President  
*Alabama Securities Commission*  
Director



**Michael S. Pieciak**  
NASAA President-elect  
*Vermont Financial Regulation*  
Commissioner



**Tom Cotter**  
NASAA Treasurer  
*Alberta Securities Commission*  
Vice Chair



**Gerald Rome**  
NASAA Secretary  
*Colorado Securities Commissioner*



**Shonita Bossier** *(through May 2018)*  
*Kentucky Securities Director*



**Pamela Epting**  
*Florida Office of Financial Regulation*  
Deputy Commissioner



**Bryan Lantagne**  
*Massachusetts Securities Division Director*



**Melanie Senter Lubin**  
*Maryland Securities Commissioner*



**Tanya Solov**  
*Illinois Securities Division Director*



**Joseph Brady**  
*(ex officio)*  
NASAA Executive Director

# Board Committees & Awards

## Board Committee Chairs 2017-2018

### Awards

Craig Goettsch, Iowa

### Capital Formation

Michael Pieciak, Vermont

### CRD/IARD Forms & Process

Natasha Hurt, Florida

### CRD/IARD Steering

Melanie Lubin, Maryland  
Pamela Epting, Florida, Vice-Chair

### Cybersecurity

Amanda Senn, Alabama

### Electronic Filing Depository

William Beatty, Washington

### NASAA Exams Advisory

Leslie Van Buskirk, Wisconsin

### Federal Legislation

Gerald Rome, Colorado

### Finance & Audit

Tom Cotter, Alberta

### Fintech

Michael Pieciak, Vermont

### International

Sharon Kelly, Quebec

### Investment Adviser Continuing Education

Shonita Bossier, Kentucky, Co-Chair  
(through May 2018)  
Linda Cena, Michigan, Co-Chair

### Legal Services

Gerald Rome, Colorado

### Member Services

Pamela Epting, Florida

### NEMO Training & Support

Michael Huggs, Mississippi

### Professional Development

Judith Shaw, Maine  
Steve Dowling, Prince Edward Island,  
Vice-chair

### Senior Issues/Diminished Capacity

Judith Shaw, Maine  
Deborah Gillis, New Brunswick, Vice-Chair

### SRO Matters

Andrea Seidt, Ohio

### State Legislation

Lynne Egan, Montana

### Uniform Securities Act

Craig Goettsch, Iowa

## Awards

### Blue Sky Cube

#### 2018 Honorees



**Joseph P. Borg**  
Alabama



**Linda Cena**  
Michigan

*The Blue Sky Cube, NASAA's highest honor, recognizes career achievement and distinguished contributions to securities regulation. It is named for Blue Sky Law, the umbrella term for state laws throughout the United States that regulate the offering and sale of securities. Kansas enacted the first Blue Sky Law in 1911 to protect investors from speculative schemes that, in the words of a judge of the period, had no more substance than so many feet of "blue sky."*

### Outstanding Service Award

Kevin Anslem, Alaska  
Shonita Bossier, Kentucky  
Katherine Milgram, New York  
John Morgan, Texas  
Gregory Strong, Delaware  
David Tatman, Oregon  
Keith Woodwell, Utah

### Investor Champion Award

Barbara Roper  
Consumer Federation of America

### Distinguished Service Award

Stephen Bouchard, New Jersey  
Anne Followell, Ohio  
Scott Lane, Pennsylvania  
Ricky Locklar, Alabama  
Joe Rotunda, Texas  
Jake van der Laan, New Brunswick  
Dylan White, Massachusetts

### Dennis E. Wiczorek

### Distinguished Service Award

Craig Tregillus  
Federal Trade Commission

## Corporate Office Staff

### Executive & Administrative

Joseph Brady  
*Executive Director*

Carole Rowe  
*HR Coordinator/Executive Assistant*

Josephine Oundo  
*Office Coordinator*

### Finance & Operations

Marina Alonso-Mendoza  
*Director of Finance & Operations*

Darren Norwood  
*Regulatory Examinations Senior Manager*

Jason Wolf  
*Technology & Product Manager*

Alpha Ousmane Sarr  
*Accounting Senior Manager*

Kaprina Robinson  
*Membership Services & Finance Manager*

### Legal

A. Valerie Mirko  
*General Counsel*

Zachary Knepper  
*Deputy General Counsel*

Christopher Staley  
*Assistant General Counsel*

Mark Stewart  
*Counsel*

Kameron Hillstrom  
*Counsel*

### Policy & Government Affairs

Michael Canning  
*Director of Policy*

Richard Ramirez  
*Assistant Director of Policy & Counsel*

### Communications & Investor Education

Bob Webster  
*Director of Communications*

### Conferences & Education

James Apistolas  
*Director of Educational Programs & Conferences*

Lonnie Martin  
*Associate Director of Membership & Meetings*

Nichol Bizjak  
*Meetings & Conference Coordinator*



North American Securities Administrators Association

750 First Street NE, Suite 1140

Washington, DC 20002

(202) 737-0900

[www.nasaa.org](http://www.nasaa.org)