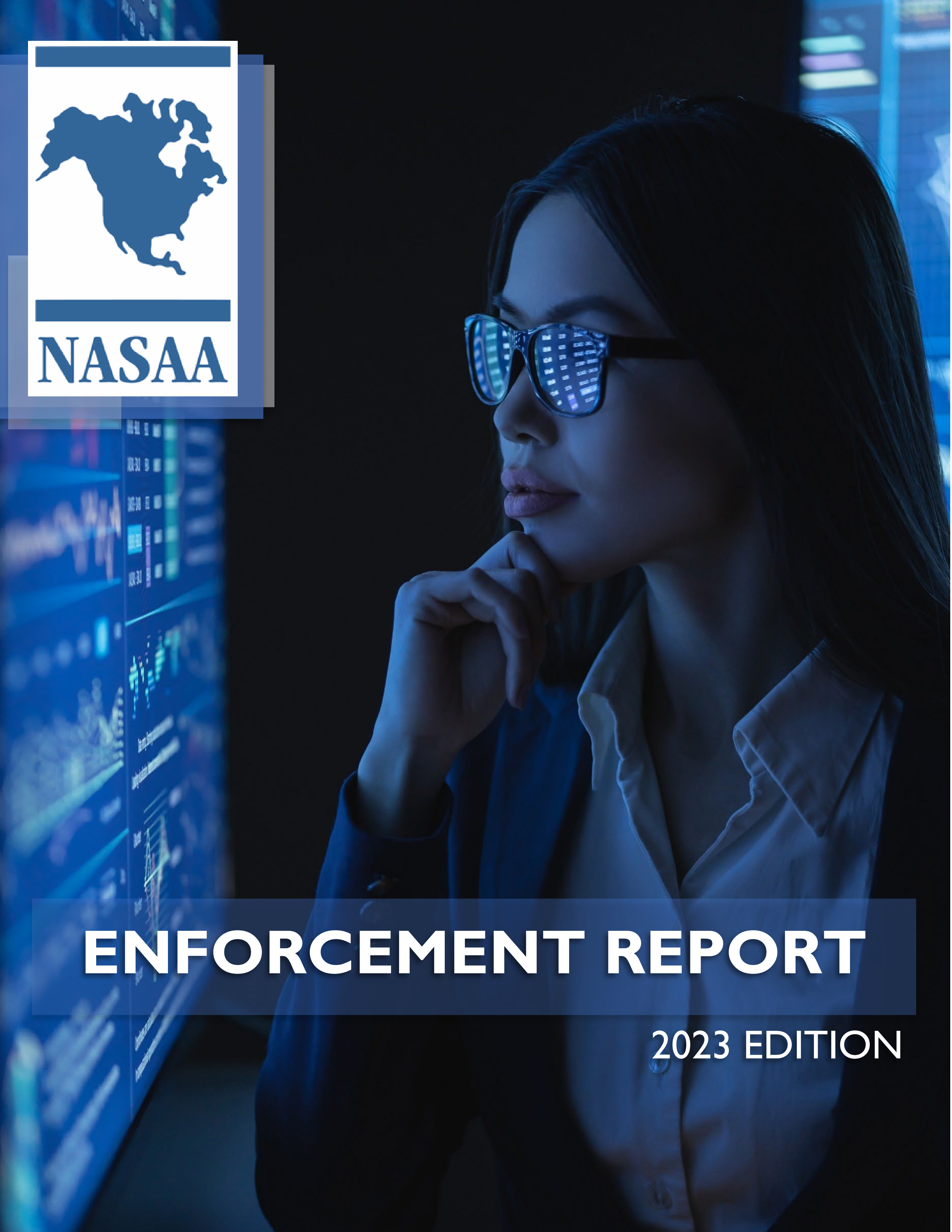


NASAA

ENFORCEMENT REPORT

2023 EDITION

INTRODUCTION: OLD IDEAS IN NEW CLOTHES

The North American Securities Administrators Association (NASAA) is an international association of state, provincial, and territorial securities regulators in the United States, Canada, and Mexico. These regulators continue to serve as the first, and often the last, line of defense against white-collar crime and financial misconduct targeting the investing public. As we move out of the pandemic, we continue to be astonished at the creativity and ingenuity of con artists. While the pandemic provided a host of new headlines and fodder for fraudsters, the schemes that emerged were fundamentally no different from the devices of the past. They are simply adorned with new clothes.

This year's report reflects the responses of securities regulators in 48 U.S. states and territories covering 2022 fiscal and calendar years. In 2022, they investigated 8,538 cases and initiated 1,163 enforcement actions, including 136 criminal actions, 59 civil actions, and 825 administrative actions. Members also secured $702 million in restitution and more than $223 million in fines, as well as approximately 5,337 months in prison sentences and 9,520 months of supervised release. Cumulatively, this data highlights the continued vigilance of NASAA's members as the local "cops on the beat." Moreover, the types of activities for which NASAA members took action demonstrate that in a post-pandemic world, the principles the United States Supreme Court enunciated in *SEC v. W.J. Howey Co.* remain relevant. Indeed, *Howey* serves as a touchstone for the myriad of investment schemes which are often constructed around relationships and built upon trust. While an investment contract can be "negotiated" in a variety of circumstances, the essence of this "security" is an agreement, transaction, or scheme, with a view toward an investment, entered into by investors that are relying on the efforts of others to put their money to work. *Howey* withstands the test of time and continues to provide an adaptive framework for regulators to evaluate the ever-evolving investment landscape and allows for oversight of the financial pursuits that form the basis of prosperity within our jurisdictions. Despite the altered appearance of many new frauds, existing regulatory tools remain effective to provide the investor protections critical to maintaining the integrity of our capital markets.

In addition to providing enforcement statistics, we will highlight several of the investment schemes common throughout NASAA membership. Again, the vast majority of these scams are simply new iterations of old schemes. The unregistered digital currency crazes mimic the imposter scams of yore while the precious metal scams prey on our fears of economic destruction. In the registered space, unsuitable products and excessive fees never went away, they just donned new suits.

On behalf of the Enforcement Section, thank you for taking an interest in this report. NASAA members are in a unique, and often unfortunate, position to witness conduct in our own "backyards," often impacting our friends, families, and neighbors. We share this information to encourage awareness of the investment landscape, especially fraud, and to enhance the vigilance of the financial professionals that serve our communities. We are all working toward the common goals of helping investors build their futures and providing stability in our shared markets.

Sincerely,

Amanda Senn	**Brett Olin**	**Joe Rotunda**
Section Co-Chair	Section Co-Chair	Section Vice-Chair
Director	Deputy Securities Commissioner	Enforcement Director
Alabama Securities Commission	Office of the Montana State Auditor	Texas State Securities Board

KEY DATA – INTAKE AND INVESTIGATIONS

State and provincial securities regulators play a critical role in protecting investors from fraud and misconduct. Although their work varies from case to case, their investigations and enforcement actions largely begin with the receipt of either tips filed by the public or referrals from other agencies. In 2022, state securities regulators reported data showing the receipt of 6,932 tips and complaints – a slight increase from the 6,643 fielded in 2021 and a sharp increase from the 5,498 reported in 2020. They also received 1,394 referrals from other agencies; a plurality of these referrals (265) come from state or local law enforcement agencies.

In 2022, state securities regulators reported working on 8,538 new and ongoing investigations, representing an increase of more than 21% from the 7,029 investigations reported in 2021.

In 2022, state securities regulators reported opening 5,136 new investigations of suspect securities schemes and investment advisory services. Depending upon the complexity of the cases, these investigations may not be opened, conducted and closed during a single year. In 2022, for example, agencies investigated an additional 3,402 ongoing cases opened in previous years. Accordingly, their aggregate reported caseload involved 8,538 investigations – a significant increase from the 7,029 new and ongoing cases reported in 2021.

KEY DATA – ENFORCEMENT ACTIONS

State securities regulators are often described as the “cops on the beat” – a reference to their work in policing the capital markets and protecting the public from harm. They are responsible for identifying suspect securities offerings and conducting investigations that often involve voluminous

amounts of technical evidence. They use this evidence to support allegations in enforcement actions filed to stop ongoing fraudulent and unlawful schemes, obtain financial relief for investors, assess monetary fines against perpetrators, and secure justice for victims.

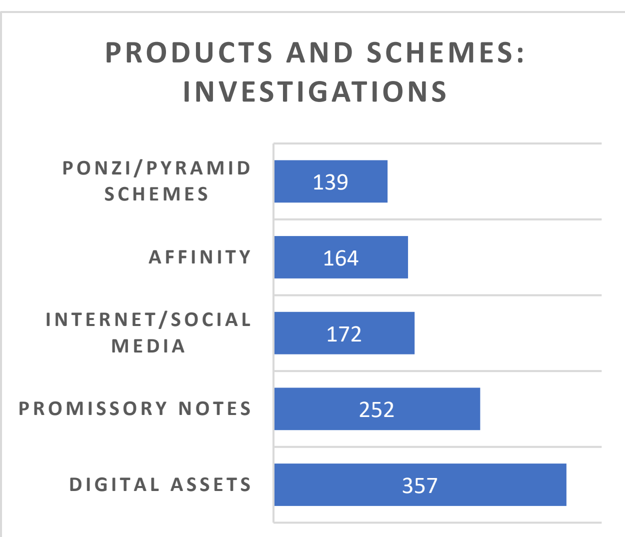
Their strong work is evident from the data collected pursuant to the 2023 NASAA Enforcement Survey. State securities regulators reported initiating 1,163 enforcement actions against 2,465 parties, including 825 administrative actions against 2,037 respondents, 59 civil actions against 119 defendants, and 136 criminal cases against 162 defendants. The most commonly charged violation was the offer or sale of securities/investment advice by unregistered parties (500 actions), followed closely by securities fraud (458 actions) and the offer or sale of unregistered securities (412 actions).

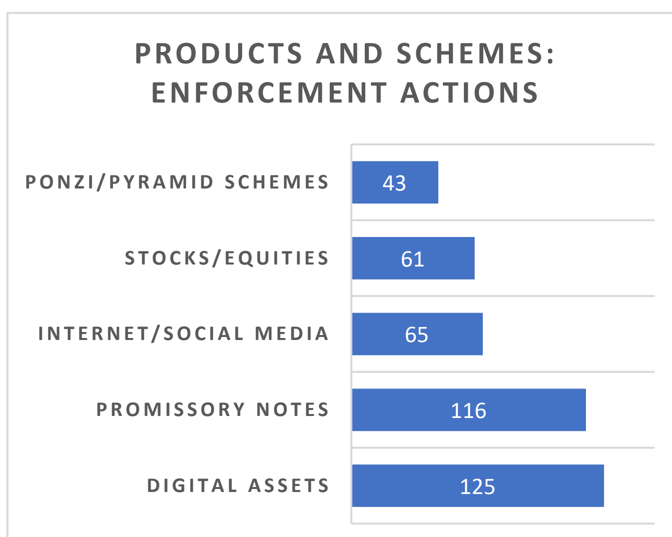
KEY DATA – PRODUCTS AND SCHEMES

In addition to quantifying important work of state enforcement programs, the data also serve as a window to market trends, providing insight on new trends in key enforcement cases and emerging threats to the investing public. This year, information provided by state securities regulators shows their investigations and enforcement actions are heavily tied to the emergence and adoption of new technologies – including digital assets and products marketed through the internet and social media.

For example, responses to prior surveys clearly show that bad actors have historically developed schemes involving traditional products, such as stocks and equities. In fact, in 2021, state securities regulators reported opening more investigations involving stocks and equities (271) than any other product classification. In the same year, they also reported opening numerous investigations involving real estate investments (130) and promissory notes (223). The script flipped in 2022, when state securities regulators reported opening more investigations involving digital assets than any other product. They also reported a sharp increase in the number of investigations involving social media and internet scams, opening 172 cases in 2022 compared to 127 cases in 2021.

State enforcement actions, much like state investigations, trended toward technology. In 2021, state securities regulators reported filing more enforcement actions involving promissory notes (161) than any other products. In 2022, however, state securities regulators reported the filing of more enforcement actions involving investments tied to digital assets (125) – an increase of almost 30% from the previous year.





KEY DATA – CRIMINAL PROSECUTIONS

State securities regulators are committed to the pursuit of justice for victims of financial fraud. They often prosecute offenses committed by sellers of securities, either through inherent prosecutorial authority or appointments from district attorneys or attorneys general. They also often collaborate with law enforcement agencies by jointly investigating complex schemes, referring cases for criminal prosecution, and testifying in criminal proceedings as fact and expert witnesses.

The responses to the enforcement survey highlight the critical role state securities regulators play in the successful prosecution of securities offenses. In 2022, their work helped convict white-collar criminals collectively sentenced or ordered to serve 5,337 months in prison and 9,520 months of probation and deferred adjudication.

KEY DATA – MONETARY RELIEF

State securities agencies often seek monetary penalties against bad actors and restitution for victims of misconduct. Financial penalties can serve to deter fraudulent conduct, both on the part of the offender and from other parties aware of the possibility of similar consequences. Restitution can also reduce or relieve damage suffered resulting from illegal conduct.

In 2022, state actions led to significant monetary relief. U.S. NASAA members reported approximately $223 million in monetary fines and penalties and approximately $702 million in restitution for victims of misconduct. They also reported approximately $21 million in financial penalties to reimburse investigative costs and approximately $11 million in payments to investor education programs.

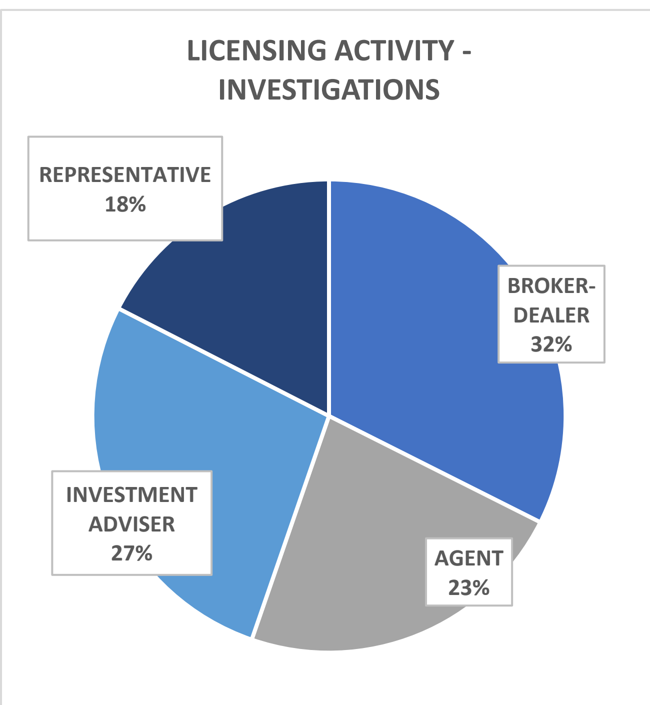
LICENSING DATA

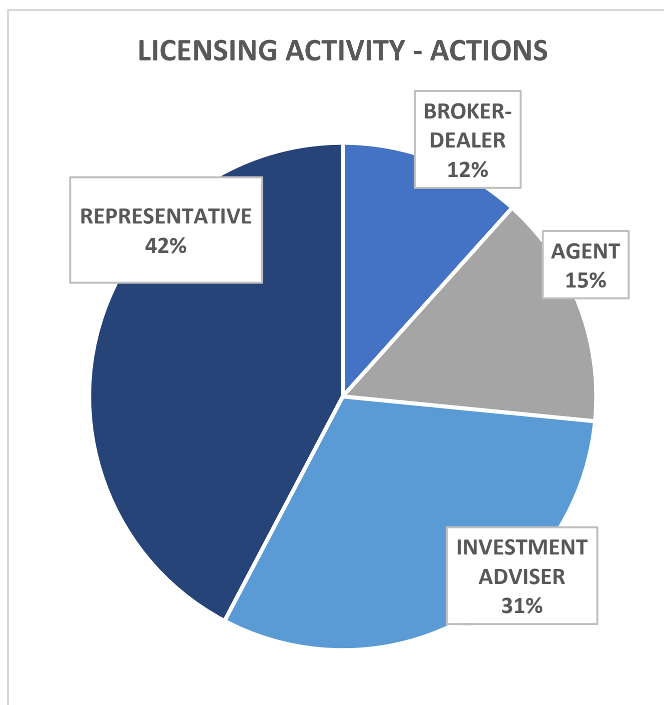
In addition to stopping unregistered schemes and sanctioning unlicensed promoters, state securities regulators also act as gatekeepers for the capital markets. They perform their gatekeeping function, at least in part, by assessing the qualifications and experience of candidates for licensure, inspecting the books and records of broker-dealers and state-registered investment advisers, and litigating cases to suspend or revoke the registrations of bad actors. Their work promotes both compliance with laws designed to protect investors and confidence in the integrity of the markets.

Overall, state regulators reported conducting nearly 1,000 investigations of registered parties, including 522 investigations of broker-dealers and agents and 422 investigations of investment advisers and investment adviser representatives. Although they opened more investigations of broker-dealers and agents, state regulators actually filed a greater number of enforcement actions against investment advisers and investment adviser representatives (271) than broker-dealers and agents (98). The most commonly cited violations related to books and records (53), supervision (43), and cybersecurity (13).

In 2022, state securities regulators continued taking the steps necessary to prevent unqualified and unscrupulous parties from working in the securities industry. They revoked 57 licenses, barred 63 individuals and 31 firms from the industry, and suspended the licenses of an additional 42 registrants. U.S. NASAA members also denied slightly more than 600 license applications – the highest number of such actions in recent years.

Although the volume of investigations and number of actions are significant, this data does not account for the entirety of efforts to safeguard entry to the capital markets. For example, many licensing matters are resolved through means other than litigation – such as when a candidate abandons an application before state agencies can file cases seeking the denial, suspension, or revocation of licenses. These situations arise frequently – in 2022 alone, state agencies reported that 5,956 individuals and 291 firms withdrew their applications for licensure.





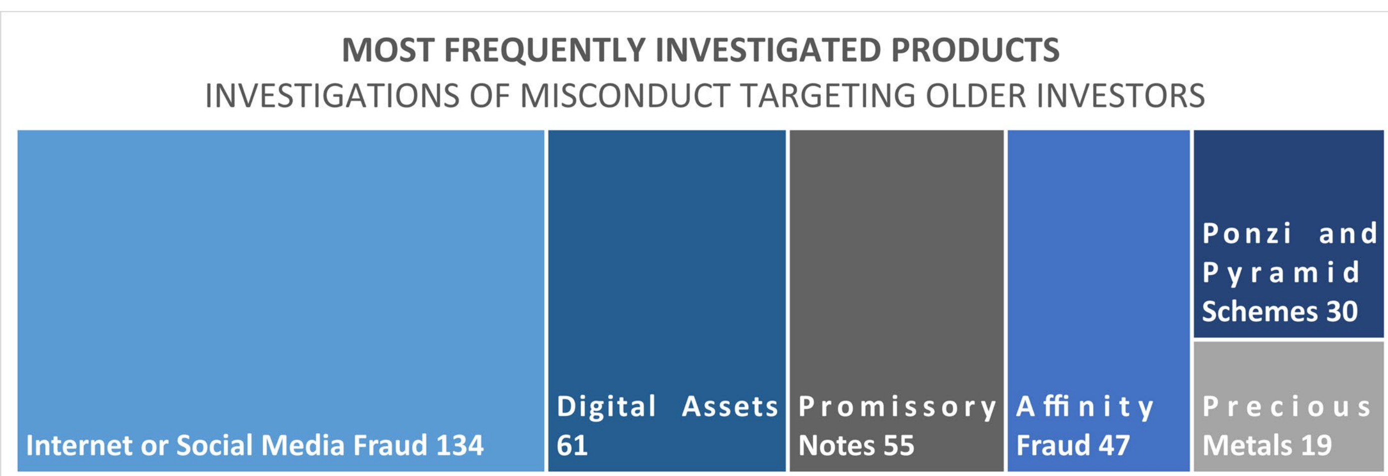
PROTECTING OLDER INVESTORS

Many older investors possess wealth and assets accumulated over their lifetimes, making them attractive targets for financial scammers. State securities regulators prioritize the protection of older and vulnerable investors. They frequently file enforcement actions to stop senior financial exploitation and punish perpetrators of fraudulent schemes that target older and sometimes vulnerable investors. Moreover, state securities regulators coordinate their work with other state agencies serving seniors, such as local offices responsible for adult protective services, to ensure victims receive the appropriate guidance and service.

FROM THE FILES: AFFINITY FRAUDS

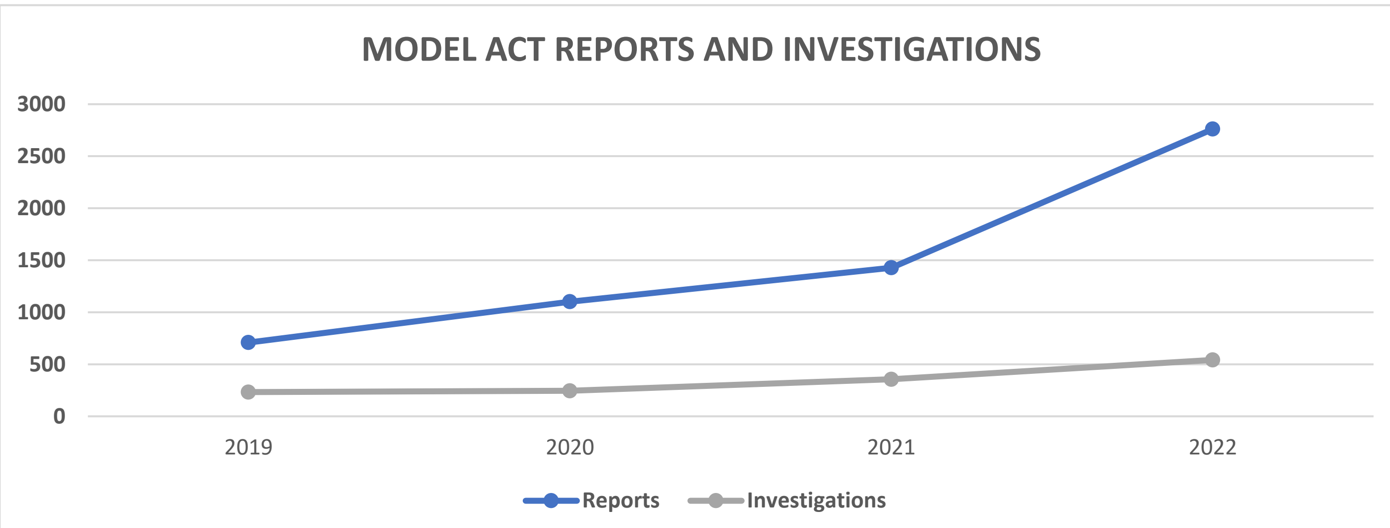
Thomas Hanson Fairbanks raised capital from friends and members of his church, promising to use their funds to facilitate loans for small local businesses. The Utah Division of Securities investigated Fairbanks for misapplying capital raised from friends and members of his church. The investigation also revealed Fairbanks opened multiple joint accounts with at least one elderly investor under the ruse of helping her manage her finances and investments. The evidence showed he visited her during stroke recovery treatment, drove her to the bank to transfer large sums, overdrew her accounts, and liquidated her assets totaling over $600,000 for his financial benefit. Although the elderly investor died while the criminal case was pending, a jury found Fairbanks guilty of two counts of securities fraud. He failed to appear for sentencing and a warrant has been issued for his arrest.

The responses to the enforcement survey show that older investors continue to be targeted by financial scammers. In 2022, state securities regulators fielded 1,814 complaints of alleged misconduct perpetrated against older investors. They also opened 680 investigations and filed 133 enforcement actions involving at least one older investor. These cases have historically involved traditional products that provide certainty, such as promissory notes and debt instruments, and other investments perceived as being isolated from changes in the economy, such as gold and silver or notes paying fixed returns over a fixed term. This year, however, the responses to the survey hint at a shift away from established assets and investments. In 2022, state securities regulators cited social media and internet scams (134) and digital assets (61) as the top two issues in investigations involving older investors.



In 2016, NASAA members voted to approve the NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation. The model law, which has been adopted in some form by 36 states, provides regulators with another tool for protecting older investors. It generally requires certain financial services professionals to notify state securities regulators and agencies for adult protective services whenever they form a reasonable belief of the attempted or actual exploitation of an elderly or vulnerable client.

The adopted versions of the model law have proven to be critical components of senior investor protection efforts. In 2017 – the first year the enforcement survey addressed the model law – states reported the receipt of around 500 reports of the suspected financial exploitation of vulnerable investors. The volume of reporting has significantly grown over time, with states receiving more than 1,102 in 2020 and 1,428 reports in 2021. The trend continued in 2022, as states received 2,761 reports of the suspected exploitation of vulnerable investors – nearly a 100% increase from the previous year alone – and opened nearly 550 investigations of conduct described within these reports.



PRECIOUS METALS

Commodities such as gold and silver are often perceived as hedges against economic uncertainty, and precious metals often are considered tools for preserving wealth due to the intrinsic value of precious metals. Not surprisingly, bad actors have been preying upon recent concerns about inflation and other economic issues to perpetrate fraudulent schemes tied to commodities.

FROM THE FILES: GOLD MINES

Louis K. Titcomb, individually and dba as LKT Hawaii and LKT Hawaii, promised a 900% return to a Hawaii resident who invested $174,500 in a gold mine. However, an investigation conducted by the Hawaii Office of the Commissioner of Securities secured evidence proving Titcomb used the principal for personal purposes, including, but not limited to, payments made hostess bar establishments, liquor stores, and hotels. The Hawaii's Commissioner of Securities entered an order that barred Respondents from the industry and ordered them to pay full restitution and a $250,000 administrative penalty.

Sales of gold and silver coins, bars, and bullion, without more, may not be regulated as securities transactions. However, investigations show that bad actors leveraging concerns about the performance of the equity markets have been advising clients to protect themselves by selling individual holdings of specific stocks and using the proceeds to invest in precious metals. Depending upon the facts of each case, these bad actors may be acting as unlicensed investment advisers subject to state regulation.

Precious metals scammers often direct clients to open self-directed individual retirement accounts (SDIRAs) with qualified custodians. SDIRAs typically provide more flexibility than traditional IRAs by permitting owners to invest in a number of different types of alternative assets. While SDIRAs are legitimate tools for the administration of investments, bad actors often incorporate SDIRAs into their schemes to convey a false sense of legitimacy. In furtherance of their schemes, instead of describing their responsibilities, scammers often depict custodians as an independent, objective, regulated third-party working to protect clients.

The responses to the enforcement survey reflect an increasing number of cases involving SDIRAs. In 2022, state securities regulators reported 112 investigations of promoters using SDIRAs in connection with the sale of securities or rendering of investment advice – a 36% increase from 2021. They also reported 31 enforcement actions filed against parties using SDIRAs – a 24% increase from 2021.

SOCIAL MEDIA

Social media and the internet continue to transform the way people interact and firms conduct business. Although legitimate financial services firms are using these platforms to advertise new products and engage with clientele, bad actors are also using social media to more effectively recruit victims and defraud the public.

The responses to the survey demonstrate the breadth of the threat presented by social media and internet frauds. In 2022, state securities regulators opened more than 170 investigations that involved the use of social media and the internet, a significant increase from the 127 total investigations reported the previous year. They also reported 65 enforcement actions tied to social media and the internet – more than the number of enforcement actions involving stock and equities (61), real estate (36), and oil and gas investments (15).

FROM THE FILES: SOCIAL MEDIA

Bad actors do not simply use social media as a way of recruiting new victims. In some cases, they may attempt to capitalize on the popularity of social media by offering fraudulent investments tied to new platforms. For example, a recent investigation conducted by the Indiana Securities Division led to charges against David Betner. The Division alleged Betner raised money to develop a new social media application and, when investors grew anxious, Betner claimed the issuer was on the verge of being purchased by Facebook for hundreds of millions of dollars. He eventually pled guilty to securities fraud and other charges and received the maximum sentence of 12 years in prison.

DIGITAL ASSETS

For many years, state securities regulators have been leaders in protecting the public from investment scams involving digital assets. For example, in 2017, U.S. NASAA members filed their first enforcement action to stop a digital asset investment scam threatening irreparable public harm. The next year, the NASAA Enforcement Section managed *Operation CryptoSweep*, a coordinated international task force consisting of more than 40 U.S. and Canadian agencies that resulted in the commencement of more than 330 inquiries and investigations and the filing of more than 85 enforcement actions. Although digital asset cases tend to be highly complex and the nature of the products often limit the use of traditional investigative strategies, state securities regulators continue to police the evolving market and protect investors from misconduct.

In 2022, state securities regulators reported a significant increase in the number of digital asset cases and investigations. They opened 357 investigations involving products tied to digital assets – a significant increase from the 214 investigations opened in 2021 and the 125 investigations opened in 2020. States also filed 125 enforcement actions involving digital assets – also a significant increase from the 89 enforcement actions filed in 2021 and the 52 enforcement actions filed in 2020. Their recent work included 85 investigations and enforcement actions involving the staking of digital assets and 23 investigations and enforcement actions tied to non-fungible tokens (NFTs).

PIGS, BUTCHERING AND BLOCKCHAINS

Pig butchering scams tied to digital assets emerged as a top threat to the public. These schemes share many of the characteristics of traditional affinity scams. Bad actors contact victims – often seemingly by accident – and build trust over time. They then leverage the trust to convince victims to invest in a lucrative opportunity, often through a series of modest transactions. The name is derived from the process of fattening hogs for slaughter.

In 2022, U.S. and Canadian securities regulators coordinated various investigations of large, highly complex businesses accused of concealing significant risks associated with products tied to digital assets. Many of these cases involve the sale of investments in interest-bearing accounts, often referred to as “earn accounts” or “crypto savings accounts.”

The investigations revealed that promoters of certain earn accounts were marketing their products as the cryptocurrency equivalent of savings accounts traditionally provided by regulated banks and credit unions. Investors typically purchased the earn accounts by transferring digital assets to issuers through a website or smartphone application. Issuers thereafter generated revenue by using the digital assets to effectuate loans with undisclosed third parties. Revenue generated from lending was allegedly used to pay lucrative interest to clients.

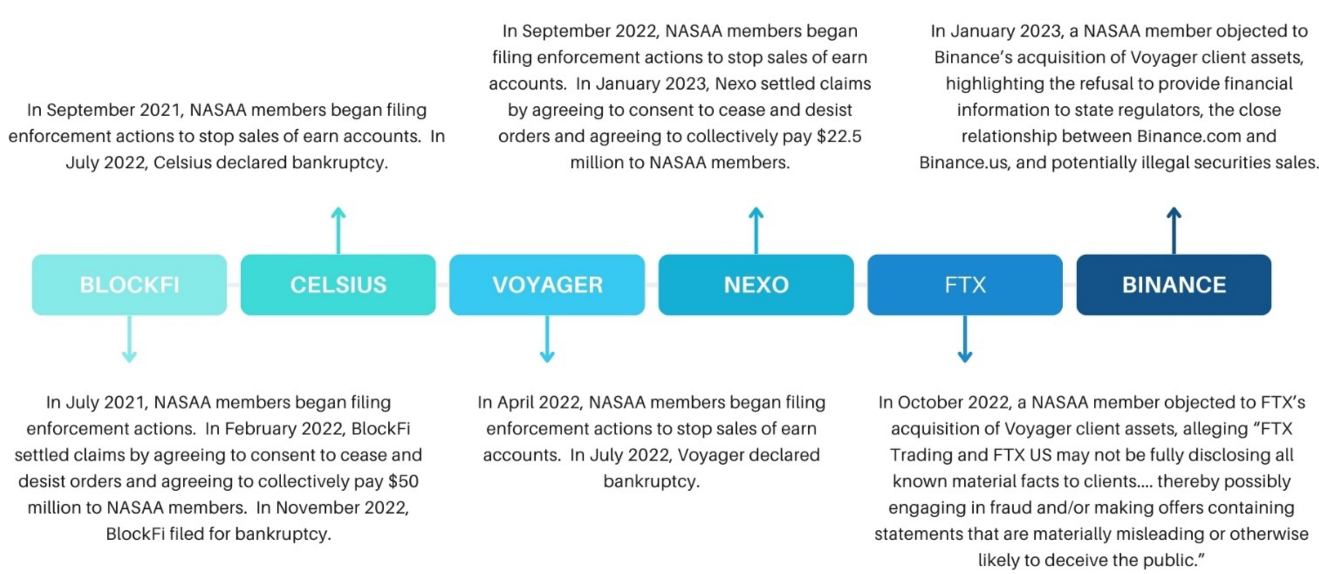
In 2021, state regulators coordinated the filing of enforcement actions against a family of companies doing business as BlockFi. These cases were the first actions filed against an issuer of earn accounts, and they generally accused BlockFi of selling the product without complying with laws requiring the registration of securities. Their filings also collectively highlighted the significant undisclosed risks associated with the earn accounts, alleging in part that BlockFi failed to provide material information relating to the capitalization of the firm and the identity and creditworthiness of borrowers. In 2022, BlockFi settled the cases by agreeing to comply with securities laws and to pay a fine of $50 million to NASAA members and $50 million to the SEC.

After coordinating their filing of enforcement actions against BlockFi, NASAA members continued protecting investors from other issuers accused of illegally, deceptively, and fraudulently dealing in earn accounts. These issuers included Celsius and Voyager. However, unlike BlockFi, neither Celsius nor Voyager settled their claims with state securities regulators. Instead, Celsius and Voyager, like various other issuers of earn accounts, ultimately froze investor accounts and filed for bankruptcy before the cases could be litigated or settled.

Cases involving issuers of earn accounts were very large, highly complex and involved numerous retail investors. For example, bankruptcy filings indicate Celsius had approximately 600,000 clients who held around $4.4 billion in interest-bearing accounts.

Although Celsius and Voyager filed for bankruptcy protection, state securities regulators continued to advocate for investors in the insolvency proceedings. They also worked to prevent assets owned by investors from being transferred to FTX and Binance as part of plans to restructure the issuers. For example, well before the collapse of FTX and the prosecution of Sam Bankman-Fried, state securities regulators objected to FTX's acquisition of the clients of Voyager. The objection disclosed the agency's investigation of FTX and regulatory concerns associated with its business. Additionally, prior to the filing of federal regulatory and criminal actions against Binance, state securities regulators objected to Binance.us' acquisition of clients of Voyager. The objection highlighted concerns relating to Binance.us' ties to Binance.com and potential violations of state securities laws.

MULTIJURISDICTIONAL COORDINATION AND CRYPTO EARN ACCOUNTS



CANADIAN ENFORCEMENT

The Canadian Securities Administrators (the CSA) highlighted the work of provincial and federal regulators in its first consolidated Year in Review. The report covers regulatory efforts between July 1, 2022, and June 30, 2023, and the following table summarizes its key enforcement data:

758	investor alerts, cautions, and warnings issued to help protect the public, 422 of which related to crypto.	OVER 1.2 MILLION	Canadians reached through our Human Disclaimers investor education campaign.
12	policy development initiatives reviewed by the IAP in its first year.		Created a new, consolidated SRO (CIRO) to drive efficiencies and benefits for Canadians and member firms.
	81 individuals and 23 companies banned from participating in the capital markets following enforcement proceedings.	16	crypto-related matters where CSA members took enforcement action to protect the integrity of our capital markets.
12	crypto asset trading platforms signed Pre-Registration Undertakings (PRUs) with CSA members to continue operations while their applications for registration are being reviewed.	33	publications signaling to the public final adoption of rule changes, consultations, blanket orders and guidance on CSA policy developments.
OVER 100	engagements with stakeholder groups and market participants relating to ongoing policy initiatives.		Published enhanced total cost reporting (TCR) requirements, an important initiative to improve investor protection.
	Launched SEDAR+ to modernize and improve disclosure process.	109	instances where CSA members provided formal assistance to one another in enforcement related matters.

ONGOING THREATS AND EVOLVING TRENDS

The data collected in the survey serves as an important tool in identifying new tactics and preparing to protect the public from emerging schemes. The recent responses to the survey indicate bad actors are increasingly incorporating new technologies in their schemes.

For example, for several years, state securities regulators have been reporting an increasing number of investigations and actions involving digital assets. The trend continued this year, when they reported more investigations and more actions tied to digital assets than any other product. The threat even extended to older investors – a demographic often considered least likely to adopt new technologies – with more investigations involving digital assets and the internet/social media than any other product or practice. Moreover, state efforts to address alleged misconduct by issuers of digital asset depository products demonstrate the gravity of the threat, as these cases show these offerings can now effectively recruit a considerable number of clients and attract significant capital over a very short period of time.

Dealings among state securities regulators, as well as their recent enforcement efforts, suggest these trends will likely continue through 2024. In fact, responses to a recent poll of NASAA members indicates that investments tied to digital assets and social media/internet schemes will continue to be the top threat throughout 2024. In addition to investments tied to digital assets, and internet/social media schemes, state securities regulators expressed concerns about affinity frauds, commodities and precious metals, and promissory notes.

The recent polling also suggests that bad actors may be increasingly leveraging widespread interest in artificial intelligence to perpetrate scams. Nearly 33% of members indicated they believe that bad actors perpetrating scams tied to artificial intelligence may become the top threat to retail investors in 2024. An additional 43% of members reported their belief that bad actors will engage in many investment schemes tied to artificial intelligence.

This report began by explaining that many contemporary frauds are simply new iterations of old schemes tied to modern concerns. It also explained that, despite rapid advances in technology and changes in the economy, the *Howey* framework continues to be effective to identify new and emerging securities frauds. In fact, state securities regulators have already relied on the *Howey* test to establish jurisdiction necessary to stop artificial intelligence frauds targeting retail investors. We anticipate that upcoming reports, coupled with investor and industry outreach, will address continued developments in this fast-paced industry.