

United States Senate

SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400
(202) 224-5364

October 14, 2015

The Honorable Mary Jo White
Chair
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Dear Chair White,

As Chairman and Ranking Member of the Senate Special Committee on Aging, one of our largest priorities is protecting the financial wellbeing of our nation's senior population. In an era when seniors are retiring with 401(k) income and other large sums of savings, they are more vulnerable to fraudulent activity as they search for a way to responsibly and prudently invest their savings. It is estimated that on an annual basis, seniors lose \$2.9 billion via scams and fraud.

Combatting fraud against seniors requires a robust response. We need to ensure law enforcement is equipped with the proper tools to identify and prosecute crimes against the elderly. We also must educate seniors about scams and ways to protect themselves. And we must give seniors and their families the tools to determine whether the financial products they are being sold and the people selling those products are legitimate.

Congress, as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, approved an Investor Advisory Committee charged with many tasks, including finding ways to protect consumers. We were pleased to learn that one of the most recent recommendations, adopted unanimously in July, focuses on protecting seniors from shady operators. More specifically, this recommendation asks the Securities and Exchange Commission (SEC) to spearhead an effort to allow seniors to go to one website to discover whether the person selling a product is registered to do so and whether that person has ever been sanctioned for violating federal securities laws. Although much of this information is publicly available today, it is not easily found amongst a diffuse group of federal and state agency websites. The Financial Industry Regulatory Authority (FINRA) runs a database of current and former members called BrokerCheck. The SEC operates the Investor Advisor Public Disclosure (IAPD) system to display investment advisers registered with the SEC or the states. The Commodity Futures Trading Commission (CFTC) operates SmartCheck, which allows for a search of its database and BrokerCheck. Additionally, insurance agents and municipal advisors are not listed in a database. Most troubling, those unregistered or unlicensed persons who are sanctioned by the SEC, FINRA, or state regulators would likely not appear in any database of registered or licensed persons.

While the existing databases are helpful and generally straightforward to use, seniors may not know which database to check given the various types of financial professionals. It would be time-consuming for a senior to check all of them to verify the registration and sanction status of a person selling a financial product. For those persons not included in one of the databases

available to the public today, it would be virtually impossible to obtain information regarding sanctions. Therefore, putting all of that information in one place may ease the burden on the senior. Additionally, if a person's name did not appear in this database, it would give a senior pause and potentially thwart fraudulent activity. For these reasons, we encourage you to give this recommendation serious consideration.

We also note that it is vital that the Commission work with all of the relevant regulators in the creation of such a database. Engaging all of the stakeholders at the state and federal level at the start of the process could ensure that certain pitfalls are avoided. We would also note that while this database will be a great tool, it should not be marketed as a panacea. Rather, a search of the database should be treated as a first step in the process, not the only step. A follow up call to the state regulator and even a Google search could reveal information that would not be in the database.

We recognize that in this tight budgetary environment, any new project or task that does not come with its own dedicated funding stream creates resource challenges. Additionally, some of the recommendations may require regulatory or statutory clarifications. We are mindful of this and respectfully request a staff briefing to better understand any potential challenges or obstacles in effectuating this recommendation. We want to work with you and assist you in any way possible to move forward what we think will be a beneficial tool for our nation's seniors. Thank you for considering our request.

Sincerely,



Senator Susan Collins
Chairman
Senate Special Committee on Aging



Senator Claire McCaskill
Ranking Member
Senate Special Committee on Aging