



# North Carolina Department of the Secretary of State

Hon. Elaine F. Marshall, Secretary

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### U.S. Securities Laws May Apply to Offers, Sales, and Trading of Interests in Virtual Organizations

#### *U.S. Securities Laws May Apply to Offers, Sales, and Trading of Interests in Virtual Organizations*

The Securities and Exchange Commission [issued](#) an investigative report on July 25 cautioning market participants that offers and sales of digital assets by “virtual” organizations are subject to the requirements of the federal securities laws. Such offers and sales, conducted by organizations using distributed ledger or blockchain technology, have been referred to, among other things, as “Initial Coin Offerings” or “Token Sales.” Whether a particular investment transaction involves the offer or sale of a security – regardless of the terminology or technology used – will depend on the facts and circumstances, including the economic realities of the transaction.



The SEC's [Report of Investigation](#) found that tokens offered and sold by a “virtual” organization known as “The DAO” were securities and therefore subject to the federal securities laws. The Report confirms that issuers of distributed ledger or blockchain technology-based securities must register offers and sales of such securities unless a valid exemption applies.

Those participating in unregistered offerings also may be liable for violations of the securities laws. Additionally, securities exchanges providing for trading in these securities must register unless they are exempt. The purpose of the registration provisions of the federal securities laws is to ensure that investors are sold investments that include all the proper disclosures and are subject to regulatory scrutiny for investors' protection.

“The SEC is studying the effects of distributed ledger and other innovative technologies and encourages market participants to engage with us,” said SEC Chairman Jay Clayton. “We seek to foster innovative and beneficial ways to raise capital, while ensuring – first and foremost – that investors and our markets are protected.”

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“Investors need the essential facts behind any investment opportunity so they can make fully informed decisions, and today's Report confirms that sponsors of offerings conducted through the use of distributed ledger or blockchain technology must comply with the securities laws,” said William Hinman, Director of the Division of Corporation Finance.

The SEC's Report stems from an inquiry that the agency's Enforcement Division launched into whether The DAO and associated entities and individuals violated federal securities laws with unregistered offers and sales of DAO Tokens in exchange for “Ether,” a virtual currency. The DAO has been described as a “crowdfunding contract” but it would not have met the requirements of the Regulation Crowdfunding exemption because, among other things, it was not a broker-dealer or a funding portal registered with the SEC and the Financial Industry Regulatory Authority.

“The innovative technology behind these virtual transactions does not exempt securities offerings and trading platforms from the regulatory framework designed to protect investors and the integrity of the markets,” said Stephanie Avakian, Co-Director of the SEC's Enforcement Division.

Steven Peikin, Co-Director of the Enforcement Division added, “As the evolution of technology continues to influence how businesses operate and raise capital, market participants must remain cognizant of the application of the federal securities laws.”

In light of the facts and circumstances, the agency has decided not to bring charges in this instance, or make findings of violations in the Report, but rather to caution the industry and market participants: the federal securities laws apply to those who offer and sell securities in the United States, regardless whether the issuing entity is a traditional company or a decentralized autonomous organization, regardless whether those securities are purchased using U.S. dollars or virtual currencies, and regardless whether they are distributed in certificated form or through distributed ledger technology.



The SEC's Office of Investor Education and Advocacy today issued an [investor bulletin](#) educating investors about ICOs. As discussed in the Report, virtual coins or tokens may be securities and subject to the federal securities laws. The federal securities laws provide disclosure requirements and other important protections of which investors should be aware. In addition, the bulletin reminds investors of red flags of investment fraud, and that new technologies may be used to perpetrate investment schemes that may not comply with the federal securities laws.

The SEC's investigation in this matter was conducted in the New York office by members of the SEC's Distributed Ledger Technology Working Group (DLTWG) -- Pamela Sawhney, Daphna A. Waxman, and Valerie A. Szczepanik, who heads the DLTWG -- with assistance from others in the agency's Divisions of Corporation Finance, Trading and Markets, and Investment Management. The investigation was supervised by Lara Shalov Mehraban.

# True Fraud Stories

CFTC recently launched “True Fraud Stories,” a video series that shines a spotlight on financial fraud by featuring the stories of everyday Americans who have become victims of financial fraud. The first video of the series, “Hunter Wise’s Silvery Slope,” details how a fraudulent silver commodities investment firm scammed Bob Bauman, a military veteran with an advanced degree in business. Bob’s experience is a powerful cautionary tale for other investors, and a reminder that no one is too smart to be scammed. [Watch Bob’s Story.](#)



Watch [this video](#) from the CFTC to learn why and how you should regularly check the background of your financial professional. .



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Sign up for SOSNC’s RSS (Really Simple Syndication) feed to receive our monthly Securities newsletter direct to your computer.

And follow SOSNC on Twitter, Facebook, LinkedIn and YouTube for more frequent updates on everything from investor education to trademarks enforcement and charitable solicitation regulation. Click on the icons below to go to SOSNC’s social media accounts!



## The New Number to Reach SOSNC

SOSNC has upgraded to a modernized department-wide telephone system, which means new phone numbers for most of the agency. But the only number most customers need to know is the department’s new central number, 919-814-5400. Calling that number will route customers to any section of the Secretary of State’s Office.

While all NCSOS individual staffers’ phone numbers have changed as a result of the switch, the agency’s current fax numbers and toll-free numbers—including the NC Investor Hotline (800-688-4507)—are not changing.



## SOSNC on YouTube

Have questions about filing annual reports for your business corporation or LLC, or perhaps becoming a notary public? A series of informative videos available now on [SOSNC’s YouTube channel](#) has you covered!

Our videos cover how to file annual reports for LLCs and business corporations, what to do if you’ve received a notice about annual reports you owe, and much more!



# NC Secretary of State's Office Takes on Rogue Online Pharmacies

Among the many duties of the NC Secretary of State's Office is the job of protecting the intellectual property rights of North Carolina- and US-based companies through our enforcement of state and federal trademark laws.

A new partnership between the Secretary of State's Office and the Center for Safe Internet Pharmacies (CSIP) — an organization supported by many of the major internet content companies and credit card companies to fight the spread of these rogue pharmacies — is aimed at protecting consumers from dangerous counterfeit prescription drugs.

The US Food and Drug Administration has estimated that about 97% of all online pharmacies are illegitimate--and are selling pills that are inert or perhaps even toxic, or they are selling overseas medications of unknown quality.

We encourage consumers considering buying their prescriptions from online pharmacies to use the search engine at <https://verifybeforeyoubuy.org/>.

“This is a major problem for three reasons,” Secretary of State Elaine F. Marshall said. “First, prescription counterfeiters and fakers put people’s health at risk by not delivering the promised dosage of medicine and by adding who knows what to that pill to make it look right. Second, they collect personal and credit card information when victims place an order which opens the door to identity theft. Finally, this is big business—big scam business, with some of these sites raking in \$1 million a day.”

Just copy and paste the exact URL (internet address) from any online pharmacy you are considering using into the search engine to verify the legitimacy of the pharmacy. Copying the exact URL is vital because many rogue pharmacies use sound-alike names that are very close to those of legitimate pharmacies and the URL itself may also only be one letter or character off from the URL of the legitimate pharmacy.

For this first of its kind ever effort, Secretary Marshall also formed the Secretary's Advisory Council to Combat Counterfeit Medication.

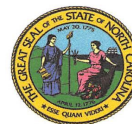
Council members include AARP, the NC Academy of Family Physicians, the NC Medical Board, the NC Association of Pharmacists, the NC Board of Pharmacy, the NC DHHS's Office of Rural Health, the NC Department of Insurance's Seniors' Health Insurance Information Program (SHIIP), the NC Chamber of Commerce, the NC Justice Center, and the NC Council of Churches.

**VERIFY**  
BEFORE YOU BUY

**ACCORDING TO THE  
FDA, 97% OF ONLINE  
PHARMACIES ARE  
ILLEGITIMATE AND  
UNSAFE.**

**Even experts have difficulty identifying a fake online pharmacy from its website alone. What looks like a discount online pharmacy from Canada or the U.S. could be a rogue website from anywhere in the world. Highly sophisticated criminal enterprises are utilizing malware, engaging in identity theft, and selling medicine that does not work, or worse, is dangerous to your health.**

[Learn more at VerifyBeforeYouBuy.org](https://verifybeforeyoubuy.org/)



VerifyBeforeYouBuy.org is a free service from the Center for Safe Internet Pharmacies (CSIP), a nonprofit founded by the White House and global technology companies. The **North Carolina Secretary of State** is partnering with CSIP to protect consumers from counterfeit drugs and unsafe online pharmacies.



# Investor Bulletin: Initial Coin Offerings

*Developers, businesses, and individuals increasingly are using initial coin offerings, also called ICOs or token sales, to raise capital. These activities may provide fair and lawful investment opportunities. However, new technologies and financial products, such as those associated with ICOs, can be used improperly to entice investors with the promise of high returns in a new investment space. The SEC's Office of Investor Education and Advocacy is issuing this [Investor Bulletin](#) to make investors aware of potential risks of participating in ICOs.*

## Background – Initial Coin Offerings

Virtual coins or tokens are created and disseminated using distributed ledger or blockchain technology. Recently promoters have been selling virtual coins or tokens in ICOs. Purchasers may use fiat currency (e.g., U.S. dollars) or virtual currencies to buy these virtual coins or tokens. Promoters may tell purchasers that the capital raised from the sales will be used to fund development of a digital platform, software, or other projects and that the virtual tokens or coins may be used to access the platform, use the software, or otherwise participate in the project. Some promoters and initial sellers may lead buyers of the virtual coins or tokens to expect a return on their investment or to participate in a share of the returns provided by the project. After they are issued, the virtual coins or tokens may be resold to others in a secondary market on virtual currency exchanges or other platforms.



Depending on the facts and circumstances of each individual ICO, the virtual coins or tokens that are offered or sold may be securities. If they are securities, the offer and sale of these virtual coins or tokens in an ICO are subject to the federal securities laws.

On July 25, 2017, the SEC issued a [Report of Investigation under Section 21\(a\)](#) of the Securities Exchange Act of 1934 describing an SEC investigation of The DAO, a virtual organization, and its use of distributed ledger or blockchain technology to facilitate the offer and sale of DAO Tokens to raise capital. The Commission applied existing U.S. federal securities laws to this new paradigm, determining that DAO Tokens were securities. The Commission stressed that those who offer and sell securities in the U.S. are required to comply with federal securities laws, regardless of whether those securities are purchased with virtual currencies or distributed with blockchain technology.

To facilitate understanding of this new and complex area, here are some basic concepts that you should understand before investing in virtual coins or tokens:

### What is a blockchain?



A blockchain is an electronic distributed ledger or list of entries – much like a stock ledger – that is maintained by various participants in a network of computers. Blockchains use cryptography to process and verify transactions on the ledger, providing comfort to users and potential users of the blockchain that entries are secure. Some examples of blockchain are the Bitcoin and Ethereum blockchains, which are used to create and track transactions in bitcoin and ether, respectively.

### What is a virtual currency or virtual token or coin?

A virtual currency is a digital representation of value that can be digitally traded and functions as a medium of exchange, unit of account, or store of value. Virtual tokens or coins may represent other rights as well. Accordingly, in certain cases, the tokens or coins will be securities and may not be lawfully sold without registration with the SEC or pursuant to an exemption from registration.

## What is a virtual currency exchange?

A virtual currency exchange is a person or entity that exchanges virtual currency for fiat currency, funds, or other forms of virtual currency. Virtual currency exchanges typically charge fees for these services. Secondary market trading of virtual tokens or coins may also occur on an exchange. These exchanges may not be registered securities exchanges or alternative trading systems regulated under the federal securities laws. Accordingly, in purchasing and selling virtual coins and tokens, you may not have the same protections that would apply in the case of stocks listed on an exchange.

## Who issues virtual tokens or coins?

Virtual tokens or coins may be issued by a virtual organization or other capital raising entity. A virtual organization is an organization embodied in computer code and executed on a distributed ledger or blockchain. The code, often called a “smart contract,” serves to automate certain functions of the organization, which may include the issuance of certain virtual coins or tokens. The DAO, which was a decentralized autonomous organization, is an example of a virtual organization.

## Some Key Points to Consider When Determining Whether to Participate in an ICO

If you are thinking about participating in an ICO, here are some things you should consider.

Depending on the facts and circumstances, the offering may involve the offer and sale of securities. If that is the case, the offer and sale of virtual coins or tokens must itself be registered with the SEC, or be performed pursuant to an exemption from registration. Before investing in an ICO, ask whether the virtual tokens or coins are securities and whether the persons selling them registered the offering with the SEC. A few things to keep in mind about registration:



- If an offering is registered, you can find information (such as a registration statement or “Form S 1”) on [SEC.gov](https://www.sec.gov) through [EDGAR](https://www.edgar.gov).
- If a promoter states that an offering is exempt from registration, and you are not an accredited investor, you should be very careful—most exemption have net worth or income requirements.
- Although ICOs are sometimes described as [crowdfunding](#) contracts, it is possible that they are not being offered and sold in compliance with the requirements of Regulation Crowdfunding or with the federal securities laws generally.



Ask what your money will be used for and what rights the virtual coin or token provides to you. The promoter should have a clear business plan that you can read and that you understand. The rights the token or coin entitles you to should be clearly laid out, often in a white paper or development roadmap. You should specifically ask about how and when you can get your money back in the event you wish to do so. For example, do you have a right to give the token or coin back to the company or to receive a refund? Or can you resell the coin or token? Are there any limitations on your ability to resell the coin or token?

If the virtual token or coin is a security, federal and state securities laws require investment professionals and their firms who offer, transact in, or advise on investments to be licensed or registered. You can visit [Investor.gov](https://www.investor.gov) to check the registration status and background of these investment professionals.

- Ask whether the blockchain is open and public, whether the code has been published, and whether there has been an independent cybersecurity audit.
- Fraudsters often use innovations and new technologies to perpetrate fraudulent investment schemes. Fraudsters may entice investors by touting an ICO investment “opportunity” as a way to get into this cutting-edge space, promising or guaranteeing high investment returns. Investors should always be suspicious of jargon-laden pitches, hard sells, and promises of outsized returns. Also, it is relatively easy for anyone to use blockchain technology to create an ICO that looks impressive, even though it might actually be a scam.

Virtual currency exchanges and other entities holding virtual currencies, virtual tokens or coins may be susceptible to fraud, technical glitches, hacks, or malware. Virtual tokens or virtual currency may be stolen by hackers.

**Investing in an ICO may limit your recovery in the event of fraud or theft. While you may have rights under the federal securities laws, your ability to recover may be significantly limited.**

If fraud or theft results in you or the organization that issued the virtual tokens or coins losing virtual tokens, virtual currency, or fiat currency, you may have limited recovery options. Third-party wallet services, payment processors, and virtual currency exchanges that play important roles in the use of virtual currencies may be located overseas or be operating unlawfully.



Law enforcement officials may face particular challenges when investigating ICOs and, as a result, investor remedies may be limited. These challenges include:

- Tracing money. Traditional financial institutions (such as banks) often are not involved with ICOs or virtual currency transactions, making it more difficult to follow the flow of money.



- International scope. ICOs and virtual currency transactions and users span the globe. Although the SEC regularly obtains information from abroad (such as through cross-border agreements), there may be restrictions on how the SEC can use the information and it may take more time to get the information. In some cases, the SEC may be unable to obtain information from persons or entities located overseas.

- No central authority. As there is no central authority that collects virtual currency user information, the SEC generally must rely on other sources for this type of information.
- Freezing or securing virtual currency. Law enforcement officials may have difficulty freezing or securing investor funds that are held in a virtual currency. Virtual currency wallets are encrypted and unlike money held in a bank or brokerage account, virtual currencies may not be held by a third-party custodian.

**Be careful if you spot any of these potential warning signs of investment fraud.**

- “Guaranteed” high investment returns. There is no such thing as guaranteed high investment returns. Be wary of anyone who promises that you will receive a high rate of return on your investment, with little or no risk.
- Unsolicited offers. An unsolicited sales pitch may be part of a fraudulent investment scheme. Exercise extreme caution if you receive an unsolicited communication—meaning you didn’t ask for it and don’t know the sender—about an investment opportunity.
- Sounds too good to be true. If the investment sounds too good to be true, it probably is. Remember that investments providing higher returns typically involve more risk.
- Pressure to buy RIGHT NOW. Fraudsters may try to create a false sense of urgency to get in on the investment. Take your time researching an investment opportunity before handing over your money.
- Unlicensed sellers. Many fraudulent investment schemes involve unlicensed individuals or unregistered firms. Check license and registration status on [Investor.gov](https://www.investor.gov).
- No net worth or income requirements. The federal securities laws require securities offerings to be registered with the SEC unless an exemption from registration applies. Many registration exemptions require that investors are [accredited investors](#); some others have investment limits. Be highly suspicious of private (*i.e.*, unregistered) investment opportunities that do not ask about your net worth or income or whether investment limits apply.

# The Native American Experience: Understanding Financial Capability

By [FINRA Staff](#)

Many Native Americans—more so than other minority populations—face difficult financial circumstances and undergo high levels of financial fragility, according to a recent study.



As a small minority group, Native Americans made up about 2 percent of the U.S. population in 2015, according to the U.S. Census Bureau. At the same time, **one in four** Native Americans is living in poverty, underscoring the need for financial empowerment programs. It is “difficult or very difficult” for about 63 percent of Native Americans surveyed to make ends meet, according to a [recent study](#) by the [FINRA Investor Education Foundation](#) and [First Nations Development Institute](#). Meanwhile, about 60 percent of African-Americans and 54 percent of Hispanics indicate the same thing. With a sample size of nearly 600 Native Americans, it’s the country’s most comprehensive study of the financial capability of American Indian/Alaska Natives (AIAN).

The findings are based on data from the FINRA Foundation’s [National Financial Capability Study](#), which is conducted every three years. “The goal of this study was to really have a better understanding of issues facing Native American communities and also to have a better understanding about financial knowledge and behavior among American Indians and Alaska Natives,” said Sarah Dewees, senior director of research, policy and asset-building programs at First Nations.

The report includes data on several different racial and ethnic groups in order to provide a better context for understanding the financial behaviors for all Americans, Dewees said. The researchers focused on collecting data about financial capability, which includes financial access and how people make financial decisions. That differs from financial literacy—typically referred to as knowledge of financial concepts, Dewees points out.

For instance, the study found that only a quarter of Native Americans surveyed could come up with \$2,000 in 30 days in the event of a financial emergency, compared to 46 percent of whites and 45 percent of Asian Americans. This is an indication of what researchers refer to as financial fragility, the lack of financial liquidity (ready money) to deal with an unexpected expense. In addition to analyzing survey data on how Native Americans communities make ends meet, Dewees said the researchers hoped to shed some light on many long-held questions about other types of behavior, including the use of savings and checking accounts, or the use of alternative financial services, such as payday loans and pawnshops. About 83 percent of Native Americans respondents reported having a checking account, the lowest among all groups, although African-Americans are only slightly higher. This finding is similar to those of other studies, according to the researchers, and suggests that Native Americans populations may be less likely to use conventional banking and lending services.

Income is also an important indicator of financial fragility among Native Americans households. Survey analysis found that 63 percent of AIAN households with less than \$50,000 in household income are financially fragile compared to only 25 percent for households with \$50,000 or more in income. In addition, there are stark differences in certain financial practices when broken down by income groups. For instance, forty-six percent of lower income AIAN households have no credit cards compared to 13 percent of higher-income AIAN households.

These differences may help explain the high use of alternative financial services among lower income households: 43 percent for households with less than \$50,000 in income and 25 percent for households with \$50,000 or more in household income. Finally, the percentage of higher-income respondents who are deemed highly financially literate—those who answered four or five questions correctly on a five-question financial literacy quiz—is nearly double the percentage of lower-income respondents considered highly financially literate.

This report by the FINRA Foundation and First Nations notes that despite many households expressing trouble to make ends meet, Native nations continue to experience economic growth and per capita incomes increases.

“As tribal economies improve, financial capability may follow,” observed Dewees.





# INVESTOR ALERT: FRAUDSTERS MAY TARGET FEDERAL GOVERNMENT EMPLOYEE RETIREMENT PLAN PARTICIPANTS

The SEC's Office of Investor Education and Advocacy (OIEA) and Broker-Dealer Task Force are [warning](#) the more than 5 million Thrift Savings Plan (TSP) participants, and investors in other federal government employee retirement plans, that investment scam artists may pretend to be affiliated with a government agency.

**Federal government agencies, including the SEC, do not endorse or sponsor any particular securities, issuers, products, services, professional credentials, firms, or individuals.**

**If someone offers you an investment opportunity and claims any affiliation with the federal government, follow these tips:**

- Do not trust any contact information or a website provided by someone contacting you with an investment idea when that person claims to be affiliated with the government, the TSP, or government retirement plans.
- According to the agency that administers the TSP, the TSP will never contact you by email, telephone, or mail asking you to provide sensitive personal information such as your account number, Social Security number, password, or PIN.
- You can confirm that a seller is not affiliated with a government agency by contacting the agency directly or calling the SEC's toll-free investor assistance line at (800) 732-0330.
- Always be cautious about providing personal information to anyone you do not personally know.



The SEC recently brought an enforcement action against Federal Employee Benefit Counselors (FEBC), a self-described “national consulting group dedicated to educating federal employees,” whose “mission” was purportedly “to help” federal employees “optimize” their benefits. The SEC’s complaint alleges that FEBC and certain of its employees fraudulently induced federal employees to roll over funds from their TSP accounts into privately issued variable annuities. The SEC alleges that the defendants created the false impression that they were in some way affiliated with, or approved by, the federal government

and deceived investors about the fees associated with, and the relative attractiveness of, the privately issued annuities. The SEC alleges the defendants obtained personal information from the employees and then sent them reports that misleadingly described the recommended investment option. The defendants allegedly failed to disclose that this “option” involved investing with a third party that had no government affiliation.

In general, fraudsters may try to deceive investors by using the word “federal” or “government” in the name of their company, copying or imitating government emblems or seals, creating fake correspondence that looks like it is from a government agency, or sending email messages that *link to an actual government website*.

*The TSP is a retirement savings plan administered by the Federal Retirement Thrift Investment Board, an independent government agency. The TSP will not contact federal employees about investment opportunities and does not authorize third parties to provide counseling or investment-related services to anyone.*

# Investor Bulletin: Retirement Investing Through 403(b) and 457(b) Plans

The SEC's Office of Investor Education and Advocacy is issuing this [Investor Bulletin](#) to provide investors with educational information about the basics of retirement investing through 403(b) and 457(b) plans.

## 403(b) and 457(b) Plans

403(b) and 457(b) plans are tax-deferred retirement savings programs provided by certain employers. Employers such as public educational institutions (public schools, colleges and universities), certain non-profits, and churches or church-related organizations may offer 403(b) plans. Employers such as state and local government agencies and certain non-profit organizations may offer 457(b) plans. **Some employers may offer both 403(b) and 457(b) plans, and allow you to contribute to both plans. Contact your employer to find out if both plans are available.**



Similar to [401\(k\) plans](#), 403(b) and 457(b) plans allow you to contribute pre-tax money from your paycheck to your 403(b) or 457(b) plan to invest in certain investment products. These pre-tax contributions and their investment earnings will not be taxed until you withdraw the money, typically after you retire.

**IMPORTANT!** The rules and tax consequences related to withdrawing money differ between 403(b) and 457(b) plans. For additional information on these rules and tax consequences, please consult a tax professional. You may also find general tax information about these plans on the Internal Revenue Service's ("IRS") website ([IRS 403\(b\) webpage](#), [IRS 457\(b\) webpage](#)).

## Contributions

The IRS determines the annual contribution limits for both 403(b) and 457(b) plans. In 2017, the annual contribution limit for both 403(b) and 457(b) plans is \$18,000. In addition to that amount, both plans allow "catch-up contributions" of up to \$6,000 for eligible participants (those age 50 or older or turning 50 that year). Each plan has specific rules governing contribution limits and "catch-up contributions." You can review these rules on the IRS's website ([403\(b\) contributions](#), [457\(b\) contributions](#)).

**IMPORTANT!** Contribution limits for both 403(b) and 457(b) plans may change each year. Please remember to confirm the current contribution limits for each plan on the IRS's website ([403\(b\) contributions](#), [457\(b\) contributions](#)).

## Things to consider when selecting a vendor

Your employer may allow you to choose your 403(b) or 457(b) plan provider from a group of pre-selected financial professionals or firms ("vendors"). Do not assume that your employer has endorsed any vendor. Determining which investment products best meet your financial objectives and identifying a vendor who sells those products is very important. Different vendors sell different types of products, and some vendors only offer a limited number of choices. Before selecting a vendor you should:

- Read your employer's 403(b) or 457(b) plan documents to learn the basic rules for how your plan operates.
- Read each vendor's 403(b) or 457(b) plan materials. A vendor's plan materials generally may include:
  - A background description of the vendor
  - A description of the vendor's investment products and services, including information related to product fees and past investment performance
  - Information related to the vendor's fees for administering and operating the 403(b) or 457(b) plan ("vendor fees"), including: brokerage fees, advisor fees, account transfer or closure fees, recordkeeping or custodial fees, and general administrative fees
  - A discussion of the tax information related to investing in a 403(b) or 457(b) plan; and
  - Any additional information the vendor may need to provide as required by applicable federal or state laws.



Research each vendor's background, credentials and experience. Ask your employer to provide you with any background information it has on the vendors in your 403(b) or 457(b) plan. Some states require vendors that provide these plans to register with one or more state regulators – in addition to any required registrations under federal laws. If your state requires these vendors to register, it may provide resources to assist you in researching vendors (e.g., [California](#) and [Texas](#)). Some vendors may be registered with the SEC or state securities regulators. For tips on researching a vendor registered with the SEC or state securities regulators, please read our [Investor Bulletin: Top Tips for Selecting a Financial Professional](#). Vendors that are insurance companies generally register with your state's insurance commission. Contact the [NC Department of Insurance](#) for information on how to research insurance companies in our State.

Understand how much you'll pay for the vendor's investment products and services, including any fees or commissions. Ask each vendor if it provides this information in a simple form that you can easily compare to similar information from other vendors.

**IMPORTANT!** Your employer selects the vendors you may choose from for your 403(b) or 457(b) plans. Some employers only offer a single vendor. Contact your employer to find out your vendor options for your specific 403(b) and 457(b) plans.

### **Investment options**

As a participant in a 403(b) or 457(b) plan, you may need to choose among different types of investments. Typically, 403(b) and 457(b) plans offer two types of investment products – annuities and mutual funds.

An [annuity](#) is a contract between you and an insurance company that requires the insurer to make payment to you, either immediately or in the future. There are three basic types of annuities:

**Fixed annuity.** The insurance company promises you a minimum rate of interest and a fixed amount of periodic payments. Fixed annuities are regulated by state insurance commissions.

**Variable annuity.** The insurance company allows you to direct your annuity payments to different investment options, usually mutual funds. Your payout will vary depending on how much you put in, the rate of return on your investments, and expenses. The SEC regulates variable annuities. For more information about their benefits and risks, please read our [Investor Bulletin: Variable Annuities – An Introduction](#).



**Indexed annuity.** This annuity combines features of securities and insurance products. The insurance company credits you with a return that is based on a stock market index, such as the Standard & Poor's 500 Index. Indexed annuities are regulated by state insurance commissions.

The [North Carolina Department of Insurance](#) publishes a "[Consumer's Guide to Annuities](#)" which discusses the risks and benefits of annuities.

A [mutual fund](#) is the common name for an open-end investment company. Like other types of investment companies, mutual funds pool money from investors and invests the money in stocks, bonds, short-term debt or money market instruments, or other securities. Mutual funds issue redeemable shares that investors buy directly from the fund or through a broker for the fund.

**IMPORTANT!** Vendors may use different names for these investment products. After reviewing the vendor's plan materials, if you are uncertain about what type of investment product a vendor offers, contact the vendor and ask them to explain it to you.

For more information about annuities and mutual funds, please read our descriptions on [Investor.gov](#) ([annuities](#), [mutual funds](#)).

## Questions to ask when choosing investment products

It will be up to you to select investments that best meet your financial objectives. Although you may be eligible to participate in a 403(b) or 457(b) plan, do not assume that your employer has endorsed any particular investment product offered through the plan. Before selecting an investment product for your 403(b) or 457(b) plan, ask the following three questions:

1. What fees will I pay?
2. Will I have to pay any penalties if I change my investment choices? If so, how much?
3. Does the vendor make more money for selling me one product over another?

### What fees will I pay?

Fees and expenses vary from investment product to investment product — and they can take a huge bite out of your returns. An investment product with high costs must perform better than a low-cost investment product to generate the same returns for you. Even small differences in fees can mean large differences in returns over time.

If a vendor tells you an investment product has “no fees,” it may mean there are no upfront fees when buying the investment product. But most investment products in 403(b) and 457(b) plans have expenses related to their operation that come out of their investment returns on an ongoing basis (e.g., an expense ratio for mutual funds or administrative expenses for annuities). These ongoing expenses can have a major impact on the investment product’s overall investment return.



For mutual funds and variable annuities, you can find information on costs and fees in the prospectuses. For fixed annuities, check the sales literature or the contract. If you need additional help understanding mutual fund related fees, please read our [Investor Bulletin: Mutual Fund Fee Expenses](#). If you need additional help understanding variable annuity fees, please read our [Investor Bulletin: Variable Annuities – An Introduction](#).

In addition to investment product fees, you should also carefully consider the impact of vendor fees. You can generally find these fees in the vendor’s plan materials.

For additional information on how fees can impact your investment returns, read our [Investor Bulletin: How Fees and Expenses Affect Your Investment Portfolio](#).

### Will I have to pay any penalties if I change my investment choices? If so, how much?

Make sure you know the answer to this question before you make your investment choices. For example, if you withdraw money from an annuity within the first few years, the insurance company may assess a “surrender” charge. A surrender charge compensates the vendor who sold the annuity to you.

Generally, the surrender charge is a percentage of the amount you sell or exchange, and declines gradually over a period of several years, known as the “surrender period.” Some annuity contracts will allow you to withdraw part of your account value each year — 10% or 15% of your account value, for example — without paying a surrender charge.

Some mutual funds have a back-end sales load known as a “contingent deferred sales load.” Like a surrender charge for an annuity, the amount of this type of load will depend on how long the shares are held, and it typically decreases to zero if the investor holds the shares long enough. The rate at which this fee will decline is disclosed in the fund’s [prospectus](#).

A redemption fee is another type of fee that some mutual funds charge their shareholders when the shareholders redeem their shares. Unlike a sales load, a redemption fee is typically used to defray fund costs associated with a shareholder’s redemption and is paid directly to the fund, not to a vendor. The SEC generally limits redemption fees to 2%. For additional information on mutual fund fee expenses, read our [Investor Bulletin: Mutual Fund Fee Expenses](#).

The question of whether you must pay a penalty or other fee for switching among investment choices in your plan is different from whether you must pay a penalty for taking money out of your 403(b) or 457(b) plan. You usually have to pay a tax penalty for early (pre-retirement) withdrawals from tax-deferred retirement plans. Consider consulting with a tax professional before you take money out of your 403(b) or 457(b) plan.

**Does my vendor make more money for selling me one product over another?**

Always ask how -- and how much -- the vendor receives as payment for selling a particular investment product. For example, you could ask:



- Do you receive a commission for selling Product X to me? If so, how much?
- Do you get any other type of compensation for selling Product X? If so, what? (This could include a bonus or points toward some other reward, such as a trip or a cruise.)
- Are there any other products that can meet my financial objectives at a lower cost to me, even if you do not sell those products?

**Additional Resources**

The Financial Industry Regulatory Authority (FINRA) provides an online tool called the FINRA fund analyzer. This fund analyzer offers information and analysis on several mutual funds, exchange traded funds (ETFs) and exchange traded notes (ETNs). This tool estimates the value of the funds and impact of fees and expenses on your investment and also allows you the ability to look up applicable fees and available discounts for funds. Please visit the [FINRA website](#) to use the fund analyzer.

[IRS 403\(b\) webpage](#)

[IRS 457\(b\) webpage](#)

Some 403(b) plans must comply with the Employee Retirement Income Security Act (ERISA). Please visit the [U.S. Department of Labor's 403\(b\) plan webpage](#) to learn more about the ERISA requirements for these plans.

## Five Minutes Could Save Your Life Savings!



Is that individual offering you an investment opportunity licensed to sell securities in North Carolina? Is the investment opportunity itself registered? Know before you sign!

While registration in and of itself is no guarantee against fraud, not being registered is a very big red warning flag. We urge you to take five minutes to call our NC Securities Hotline at 1-800-688-4507 to see if the person you have been dealing with – perhaps even for years – is properly registered and/or has a disciplinary history.

Pick up the phone and call us. You owe it to yourself and your family to check.



## Calendar of Upcoming Events

A representative from the Securities Division will be giving an anti-fraud presentation on the following dates and locations. Dates and times are subject to cancellation (although cancellations are rare), so please call the contact number listed to confirm the event is still on before leaving for it. All presentations are free and open to the public unless otherwise indicated. If you would like to schedule a speaker for your church, business, group or organization, please contact [John Maron](#) or [Leo John](#) at (800) 688-4507. For a complete list of all upcoming events, please check out our online [calendar](#).

- |         |            |  |
|---------|------------|--|
| 8/9/17  | Raleigh    | “Crowdfunding in North Carolina” presentation hosted by Shaw University Innovation and Entrepreneurship Center, 444 South Blount Street, Room 115B. Time: 6:30-8PM. For more information, please contact Talib Graves-Mann at <a href="mailto:talib@iecnc.com">talib@iecnc.com</a> .   |
| 8/10/17 | Raleigh    | “Crowdfunding in North Carolina” webinar hosted by N.C. Growing Together Project, NC State University. Time: 10:00 AM -- 11:00 AM. This event is free, but registration is required. Register <a href="#">online</a> . For more information, please contact: Emily M. Edmonds, email <a href="mailto:emelders@ncsu.edu">emelders@ncsu.edu</a> .  |
| 8/24/17 | Charlotte  | “Investment Fraud: Guarding Your Assets in a Scary World” presentation to the Kiwanis Club of Charlotte. Location: Dilworth Neighborhood Grille, 911 E Morehead Street. Time: Noon-1:15 PM. This event is free, but open to members of the Kiwanis Club of Charlotte and their guests only. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on spotting the red flags of investment fraud. For more information, contact Gerald Applefield at <a href="mailto:gerald.applefield@bejs.com">gerald.applefield@bejs.com</a> .  |
| 8/28/17 | Wilmington | “Investment Fraud: Guarding Your (Clients') Assets in a Scary World” - Wilmington Chapter of the NC Society of Accountants. Location: McAlister's Deli, 740 S College Rd. Time: 6:00 PM -- 8:00 PM. Open to NC Society of Accountants members and their guests. A representative of the Securities Division will provide an overview of investment fraud and how we can help you help protect your clients. Also, information will also be presented about the Advance Health Care Directive Registry which the Department manages for the State. This is another valuable resource accountants can direct their clients to when making plans for their future. For more information, please visit <a href="http://www.ncsa1947.org/wilmington">http://www.ncsa1947.org/wilmington</a> . |

- 8/29/17 Biscoe “Aging with Gusto” scam jam anti-fraud presentation at Biscoe Town Park. Location: 221 Mill Street. Time: 9:00 AM -- Noon. This event is free and open to the public. Shred truck will be available starting at 10 AM until full. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams. Topics will include identity theft, how to establish a protective ‘freeze’ on one’s credit report, securities fraud, charitable giving fraud and medical/Medicare fraud. Attendees have learned how to keep their credit card information from being compromised, how to obtain truly free credit reports, how to protect themselves from being taken in by Ponzi schemes and other illegitimate investment come-ons, how to protect oneself against being taken advantage of by donation scams during times of national or international disaster and how to help reduce the more than 62 billion dollars in fraud that occurs each year in the Medicare program alone. For more information, please contact Theresa Thomas at (910) 572-4464.
- 8/30/17 Weldon “Crowdfunding in NC” presentation. Location: Halifax County Community College, Small Business Center, 100 College Drive, Building 400. Time: 1:00 PM -- 3:00 PM. Free, but registration is requested. To register, please visit: <https://www.ncsbc.net/reg.aspx?mode=event&event=240370035>. Because of legislation passed by the N.C. General Assembly in July 2016, startups in North Carolina can now raise up to \$2 million from average investors using their own web site or a registered funding portal. A further simplified option, called the Local Public Offering (LPO), permits raising up to \$250,000 without use of a web site. Think of this as a friends-and-family round, except now any North Carolina resident can back an offering. These options include various safeguards for investors while expanding fundraising avenues for startups. A representative of the N.C. Department of the Secretary of State’s Office will cover recent developments in investment crowdfunding. For more information, contact Sandra Rudd-Knight at [sruddknight106@halifaxcc.edu](mailto:sruddknight106@halifaxcc.edu).
- 8/31/17 Fayetteville “Crowdfunding - Do's and Don'ts” Location: NCCEED 230 Hay Street. Time: 9:00 AM -- 10:30 AM. This is a free event. Leo John of the NC Department of the Secretary of State Securities Division will discuss federal and state crowdfunding laws and the new financing options they offer for startups and small businesses. For additional information, please contact Lexi Hasapis at [lhasapis@nceeed.org](mailto:lhasapis@nceeed.org).
- 9/5/17 Manteo “Scam Jam” anti-fraud presentation. Location: Dare County Senior Center 950 Marshall C Collins Drive. Time: 10:00 AM -- 2:00 PM. This event is free and open to the public. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams. Don’t miss this important workshop! Bring your friends and family members! For more information, please contact Laura Alvarico at

9/6/17	Hertford	<p>“Scam Jam” anti-fraud presentation. Location: Perquimans County Senior Center, 1072 Harvey Point Road. Time: 8:30 AM -- 11:30 AM. This event is free and open to the public. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams. Topics will include identity theft, how to establish a protective ‘freeze’ on one’s credit report, securities fraud, charitable giving fraud and medical/Medicare fraud. Attendees have learned how to keep their credit card information from being compromised, how to obtain truly free credit reports, how to protect themselves from being taken in by Ponzi schemes and other illegitimate investment come-ons, how to protect oneself against being taken advantage of by donation scams during times of national or international disaster and how to help reduce the more than 62 billion dollars in fraud that occurs each year in the Medicare program alone. Do not miss this important workshop! Bring your friends and family members! For more information, please contact Laura Alvarico at <a href="mailto:lalvarico@albemarlecommission.org">lalvarico@albemarlecommission.org</a></p>
9/8/17	Durham	<p>“ABCs of Incorporating a Business in North Carolina” presentation. Location: Frontier RTP, 800 Park Offices Drive. Time: Noon -- 2:00 PM. This event is free and open to the public but registration is requested. Taught by Leo John, Agency Legal Specialist, N.C. Department of Secretary of State, Raleigh. This seminar is part of the SOSNC Business Education Series. NOTE: The Frontier@RTP has a Food Truck Rodeo every Friday 11:30 am – 1:30 pm. So grab your lunch and bring it to the seminar. Speaker: Leo John, Agency Legal Specialist, N.C. Department of Secretary of State. For more information or to register, please contact LaShon Harley at <a href="mailto:harleyl@durhamtech.edu">harleyl@durhamtech.edu</a> or visit: <a href="https://www.ncsbc.net/workshop.aspx?key=180370099">https://www.ncsbc.net/workshop.aspx?key=180370099</a>.</p>
9/11/17	Raleigh	<p>“ABCs of Incorporating a Business in North Carolina” presentation. Location: Shaw University Innovation and Entrepreneurship Center, 444 South Blount 115B, Raleigh. Time: 6:30 PM -- 8:00 PM. Free. For more information, please contact Talib Graves-Mann at <a href="mailto:talib@iecnc.com">talib@iecnc.com</a></p>
9/12/17	Dunn	<p>“Understanding crowdfunding – the new option for local financing in N.C.” Location: Harnett County Small Business Center, Triangle South Enterprise Center 600 S. Magnolia Avenue. Time: 6:00 PM -- 8:30 PM. This presentation is planned as an overview of investment crowdfunding for businesses that may want to utilize this option. A representative of the N.C. Secretary of State will cover: a regulatory overview and how crowdfunding fits within securities laws; the legal do’s and don’ts of a crowdfunding offering; the marketing aspects – what you can say and how to reach investors; and utilizing a web site intermediary – picking one and connecting with investors. For more information, please contact Marinetta Pavlic at <a href="mailto:mpavl306@cccc.edu">mpavl306@cccc.edu</a></p>



- 9/21/17 Flat Rock Fourth Annual “Aging in Place. It’s In Your Future.” Blue Ridge Community College, Technology Education & Development Center, 180 W Campus Drive. No cost to attend, but registration is requested. Registration information is available at: <http://agingprojectsinc.org/>. Secretary Marshall will be a key speaker. For additional information, please contact [president@agingprojectsinc.org](mailto:president@agingprojectsinc.org).
- 9/21/17 Kannapolis “Raising Money Through Crowdfunding” Presentation. Location: Rowan-Cabarrus Community College, Small Business Center, 399 Biotechnology Lane. Time: 6:30 PM -- 8:30 PM. Free, but registration is requested. To register, please visit: <https://www.ncsbc.net/reg.aspx?mode=event&event=440370037>. Crowdfunding began as a way for the public to donate small amounts of money online to support artists, musicians and others in the creative arts. Today the money raising strategy funds all types of businesses and recently certain crowdfunding sites have been approved to link start-ups with investors. Join Leo John with the N.C. Secretary of State’s office as he shares the latest on crowdfunding and see if it’s a funding option for your business.
- 9/22/17 Durham “ABCs of Trademarks in North Carolina” presentation. Location: Frontier RTP, 800 Park Offices Drive Time: Noon -- 2:00 PM. Free. Is your company name important to you? Did you spend time and money developing a logo or a slogan? Small business owners that answer yes should consider registering for a trademark as a way to protect the business brand. North Carolina’s trademarks registry is administered by the N.C. Secretary of State’s Office, while federal trademarks are overseen by the U.S. Patent and Trademark Office. Come and learn the various aspects of trademarks – from choosing between a federal or a state trademark or both to filing for one. Attendees can expect to get an overview of the costs, benefits and pitfalls of trademarks. Taught by Leo John, Agency Legal Specialist, N.C. Department of Secretary of State. This seminar is part of the SOSNC Business Education Series. For more information, contact LaShon Harley at: [harleyl@durhamtech.edu](mailto:harleyl@durhamtech.edu).
- 9/25/17 Statesville “Trademarks in North Carolina” hosted by Mitchell Community College Small Business Center, 701 W. Front Street. Time: 6:00 PM -- 8:00 PM. For more information, please contact Suzanne Wallace at: [swallace2@mitchellcc.edu](mailto:swallace2@mitchellcc.edu)
- 9/27/17 Leland “Crowdfunding: New N.C. Options” presentation. Brunswick Community College, Main Entrance, 2045 Enterprise Drive Northeast. Time: 6:00 PM -- 8:00 PM. Free, but registration is requested. To register, please click [here](#). State legislation passes in 2016 allows startups in North Carolina to raise up to \$2 million from average investors using their own web site or a registered funding portal. A further simplified option, called the Local Public Offering (LPO), permits raising up to \$250,000 without use of a web site. These options include various safeguards for investors while expanding fundraising avenues for startups. A representative of the Secretary of State’s Office will cover recent developments in investment crowdfunding.

- 10/6/17      Hickory      “Scam Jam” anti-fraud presentation. Location: Hickory Metro Convention Center, 1960 13th Ave. Drive SE. Time: 10 AM-2 PM. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams. Topics will include identity theft, how to establish a protective ‘freeze’ on one’s credit report, securities fraud, charitable giving fraud and medical/Medicare fraud. Attendees have learned how to keep their credit card information from being compromised, how to obtain truly free credit reports, how to protect themselves from being taken in by Ponzi schemes and other illegitimate investment come-ons, how to protect oneself against being taken advantage of by donation scams during times of national or international disaster and how to help reduce the more than 62 billion dollars in fraud that occurs each year in the Medicare program alone. For more information, please contact Christina Franklin at [christina.franklin@wpcog.org](mailto:christina.franklin@wpcog.org).
- 10/23/17      Raleigh      Hispanic Outreach Conference.” Location: Raleigh Marriott City Center, 500 Fayetteville Street. Time: 10:15 AM -- 12:00 PM. A representative of the NC Department of the Secretary of State Securities Division will join representatives from the FTC and the BBB Council to participate in a panel discussion during the Hispanic Outreach Conference hosted by the Better Business Bureau of Eastern NC. This panel, lasting from 10:00 AM - 12:00 PM, will discuss the importance of a referral system between organizations and what services the offices offer. Topics will also include government issues as well as prevalent scams you see in Hispanic communities and society at large. The discussion will highlight agencies and organizations that can provide assistance in areas that BBB does not. For more information, please contact Claire Abshire at [cabshire@raleigh.bbb.org](mailto:cabshire@raleigh.bbb.org).
- 11/10/17      Wrightsville Beach      “Combating Frauds Against the Elderly: A Partnership Working Together” presentation during the NC Emergency Nurses Association Fall Education Conference. Location: Holiday Inn Resort Wilmington E -Wrightsville Beach, 1706 N Lumina Avenue. Time: 1:00 PM -- 2:00 PM. For more information, please visit <http://www.nc-ena.com/index.php>. Older adults are the number one victims of fraud. Many people don’t think they can become a victim of investment fraud. Neither did the nearly 500 people who trusted J.V. Huffman, Jr., of Conover, NC, or the 100 people who trusted Sid Hanson, of Charlotte, NC, with approximately \$25 million and \$30 million (respectively) of their money! Medical professionals are among the most highly trained observers. They are also potential investors (and victims!) themselves. This seminar seeks to enlist your help in fighting fraud against your patients while at the same time helping you learn how to recognize and avoid possible investment scams, how to do your due diligence, and the questions to ask your investment professional. This seminar will help you to understand what to do if you or your patient becomes a victim of an investment scam. Information will also be presented about the Advance Health Care Directive Registry which the Secretary of State’s office maintains.

# Recent Enforcement Action



*(For prior administrative actions, click on the badge to the right.)*

On July 10, 2017, the Securities Division of the North Carolina Department of the Secretary of State entered into a Consent Order with Deloitte Corporate Finance LLC. The Consent Order found that Deloitte Corporate Finance LLC had failed to reasonably supervise certain of its salesmen in Charlotte, and that it failed to file accurate and complete Form U4s or file timely amendments to Form U4s with respect to certain of its salesmen in Charlotte. Click [here](#) to see the Order.



## On The Docket

**The following cases are ones in which the Securities Division has had some involvement, either as the lead investigative agency or in a supporting role.**

**Darren Joseph Capote**, of Patterson, NY, was indicted on July 11, 2011, in Ashe County Superior Court on three Class C felony counts of securities fraud. He is alleged to have defrauded an elderly victim in Ashe County. He was released from custody on a \$100,000 secured bond. His next court appearance is scheduled for Aug. 28, 2017.

**David Alan Topping**, of Oak Island, NC, was arrested by law enforcement agents with the NC Secretary of State Securities Division on November 4, 2014 and charged with one felony count of securities fraud. The Brunswick County Sheriff's Office also charged Topping with one felony count of obtaining property by false pretenses and one misdemeanor charge for solicitation to obtain property by false pretenses. A Brunswick County Grand Jury has indicted Topping on the felony charges, which are now pending in Superior Court. Topping is alleged to have defrauded multiple victims out of more than \$100,000. He is currently out of jail on a \$250,000 unsecured bond.

**Charles Caleb Fackrell**, of Booneville, NC, was sentenced in federal court on December 6 to 63 months in prison for one count of securities fraud. Fackrell is still facing trial in state court on charges of obtaining property by false pretenses. He is currently in custody awaiting assignment to federal prison.



## News from the Regulators

*The following are links to selected public notices issued by one or more securities regulator. Click the links to view the full notices. These are offered for informational purposes only.*

### [Donna Esau Named Associate Regional Director for Examinations in Atlanta Regional Office](#)

**August 2, 2017**— The Securities and Exchange Commission today announced the promotion of Donna Esau to Associate Regional Director for Examinations in the agency's Atlanta Regional Office. Ms. Esau will direct a staff of approximately 40 accountants, examiners, and attorneys responsible for the examination of broker-dealers, investment companies, investment advisers, and transfer agents across five southeastern states (Alabama, Georgia, **North Carolina**, South Carolina, and Tennessee). She will assume her new post Aug. 6. “Donna is a very strong and experienced leader and manager. She has excellent technical skills, and understands the firms and capital markets which we regulate. Donna also understands the risks faced by retail investors in our region,” said Walter Jospin, Director of the SEC's Atlanta Regional Office. “I am really pleased that Donna will be part of the Atlanta office's senior management team.” Ms. Esau added, “I am grateful for this opportunity, and I look forward to leading the examination team in Atlanta as we continue to serve the public, protect investors, and help ensure market integrity. I am also excited about continuing to work with the experienced team of professionals in Atlanta.”

### [Request for Public Comment Regarding a Proposed Model Rule 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](#)

**July 25, 2017**—The North American Securities Administrators Association, Inc. (NASAA) is requesting public comment on a proposed model rule amendment to the NASAA model rule on Unethical Business Practices of Investment Advisers and Investment Adviser Representatives and Federal Covered Advisers to address investment advisers accessing client accounts with the client’s own unique identifying information (such as username and password). Comments are due on or before August 25, 2017. To facilitate consideration of comments, please send comments to Andrea Seidt ([Andrea.Seidt@com.state.oh.us](mailto:Andrea.Seidt@com.state.oh.us)), Investment Adviser Section Chair; Elizabeth Smith ([Elizabeth.Smith@dfi.wa.gov](mailto:Elizabeth.Smith@dfi.wa.gov)), Investment Adviser Regulatory Policy and Review Project Group Chair; and A.Valerie Mirko ([nasaacomment@nasaa.org](mailto:nasaacomment@nasaa.org)), NASAA General Counsel. We encourage, but do not require, comments to be submitted by e-mail.

Hard copy comments can be submitted to:

**NASAA Legal Department**  
**A.Valerie Mirko, General Counsel**  
**NASAA**  
**750 First Street, NE, Suite 1140**  
**Washington, DC 20002**

## [SIPC and FINRA Streamline Reporting Process for Broker-Dealers](#)

**August 1, 2017**—The Securities Investor Protection Corporation (SIPC) and the Financial Industry Regulatory Authority (FINRA) have announced a services agreement designed to ease reporting burdens and compliance costs for member firms. The new, simplified filing process will also reduce inconsistent or incomplete filing of annual audited financial statements and supplementary reports.

Effective Sept. 1, firms that currently file annual reports separately with SIPC and FINRA will file just once, using FINRA’s existing reporting portal. The portal will provide both agencies with the information, enabling the firms to meet the two agencies’ respective reporting requirements with a single filing.

“SIPC is pleased to have completed this arrangement with FINRA to simplify the filing requirement with SIPC for annual reports,” said Stephen P. Harbeck, President and CEO of SIPC, which currently receives more than 3,500 such reports each year. “The agreement also complements similar work that FINRA has done with its client exchanges to reduce duplicative reporting by common member firms.” FINRA President and CEO Robert W. Cook said, “Streamlining a regulatory filing requirement in a manner that reduces burdens on firms while preserving important investor protections is consistent with the goals of FINRA360, our ongoing review of our regulatory programs and operations. We appreciate the opportunity to work with SIPC on this initiative.”

All investors are strongly encouraged to contact the Securities Division at (919) 733-3924 or toll-free at (800) 688-4507 to check that their investment professional is properly registered **before** transferring any assets to that person’s control.

One five-minute telephone call to the Securities Division could protect your entire life’s savings from being stolen from you. For a wealth of investor education information, please visit our web site, [www.sosnc.gov](http://www.sosnc.gov). Click on the yellow box entitled “Investment Securities.”

This newsletter is produced by the Investor Education Program of the Securities Division of the North Carolina Department of the Secretary of State. If you have questions or comments about this publication, or would like to schedule an investor education presentation with your group or organization, please email [John Maron](mailto:John.Maron), Director of the Investor Education Program, or call (919) 807-2106.

**Please help us publicize the educational information in this mailing by forwarding it to your contacts around the state.**

If you no longer wish to receive mailings from the Securities Division, please send an email to: [jmaron@sosnc.gov](mailto:jmaron@sosnc.gov) with “Remove from mailing list” in the subject line.

**Remember that if an investment sounds too good to be true, it probably is!**