



601 E Street, NW | Washington, DC 20049
202-434-2277 | 1-888-OUR-AARP | 1-888-687-2277 | TTY: 1-877-434-7598
www.aarp.org | twitter: @aarp | facebook.com/aarp | youtube.com/aarp

December 1, 2014

Marcia E. Asquith
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street NW
Washington, DC 20006-1506

**RE: *Comprehensive Automated Risk Data System
Regulatory Notice 14-37***

Dear Ms. Asquith:

On behalf of AARP,¹ I am writing in strong support for the proposed Comprehensive Automated Risk Data System (CARDS), which would modernize regulatory oversight and examination programs by harnessing technological advances and, as a result, significantly enhance investor protection and ensure market integrity. The implementation of CARDS will better equip Financial Industry Regulatory Authority (FINRA) to identify and quickly respond to high-risk areas and suspicious activities that might not be detected under its current oversight and examination programs.

AARP commends FINRA for seeking ways to more efficiently and effectively oversee broker-dealers and their representatives. Investment fraud and financial abuse continue to be major concerns, particularly as more and more Americans turn to capital markets to save for their retirement years. Taking steps to use 21st century technology to mitigate and, in certain instances, prevent investor harm is an important step forward. Over the last several decades, the financial services industry has taken advantage of innovations in technology to move toward more complex and automated capital markets, while regulatory tools too often have lagged behind. Currently, FINRA's examination and enforcement programs rely heavily on the collection of information on a firm-by-firm basis which varies in content, scope and timing. CARDS will allow FINRA to collect information in a standardized, automated format across all relevant firms on a regular basis.

¹ AARP is the largest nonprofit, nonpartisan organization representing the interests of Americans age 50 and older and their families.

Investment Fraud and Abuse and Older Americans

A major priority for AARP is to assist Americans in accumulating and effectively managing adequate retirement assets. Essential to achieving this goal is helping individuals better manage financial decisions, as well as supporting efforts to protect individuals from investment fraud and financial abuse that erode savings and financial assets.

While investors of all ages can be victims of financial fraud, it is well established that older Americans are disproportionately represented among the victims of investment fraud and abuse. In 2010, it was estimated that at least one in five Americans over the age of 65 – amounting to 7.3 million seniors – has been victimized by financial fraud.² And, fraud experts caution that widely accepted statistics actually underestimate the problem because most senior financial abuse goes unreported. More recent data suggest that the problem is worsening. Doug Shadel, Washington state director for AARP and a former fraud investigator, notes that “financial fraud is skyrocketing,” and that there are “not enough investigators and prosecutors to handle the unbelievable surge in this activity.”³

Older Americans are lucrative targets for scams as a result of several factors: their possession of ample retirement savings, greater tendency to live in social isolation, and health conditions that may diminish financial decision-making ability. And as Lynne Egan, Montana's deputy securities commissioner⁴ notes, in recent years, “interest rates have been so low that seniors living on a fixed income have to take on some risk, and con artists know this” and therefore tout inappropriate products to older investors who are already susceptible to financial abuse due to the factors mentioned above.

Shedding light on the regional scope of elder financial fraud and abuse, an eye-opening *Wall Street Journal* investigation⁵ analyzed the records of approximately 550,000 stockbrokers and identified 16 U.S. “hot spots” where troubled brokers, those with records of regulatory actions, criminal charges, and client complaints, tend to concentrate. A common denominator among the hot spots: a large population of older Americans. While the investigation did much to reveal the kinds of financial scams targeting older investors (and coined the term “plate-licker,” referring to a broker who attracts clients using the often high pressure-inducing free meal), it also made a persuasive case for automating the process of data collection in order to more comprehensively assess business conduct patterns and trends across the country.

² Investor Protection Trust, “Survey: Elder Investment Fraud and Financial Exploitation” (June 15, 2010), available at http://www.investorprotection.org/downloads/pdf/learn/research/EIFFE_Survey_Report.pdf.

³ Eleanor Laise, “Retirees, Protect Yourself From Fraudsters,” *Kiplinger's Retirement Report*, November 2014, available at <http://www.kiplinger.com/article/retirement/T048-C000-S004-protect-yourself-from-fraudsters.html>.

⁴ *Id.*

⁵ Jean Eaglesham and Rob Barry, “How Troubled Brokers Cluster, Often Among Elderly Investors,” *Wall Street Journal*, November 12, 2014, available at http://online.wsj.com/articles/how-troubled-brokers-cluster-often-among-elderly-investors-1415763019?tesla=y&mod=djemITP_h&mg=reno64-wsj

The manner in which *Wall Street Journal* reporters conducted this investigation is equally relevant to this discussion as are their findings. For their inquiry, the reporters pieced together stockbroker records from 27 states, detailing the disciplinary and employment histories of roughly 550,000, or 87 percent of the country's stockbrokers. To identify hot spots, reporters used software employed by epidemiologists to locate high-density clusters of sick individuals. When this tool was applied to the records of stockbrokers, it flagged 16 areas with at least 500 brokers where there was an above-average rate of troubled individuals –those with three or more red flags on their records, an industry measure of a troubled broker.⁶ With standardized, real-time data collection and reporting, CARDS would enable FINRA examiners to employ comparable methods as those utilized by the *Wall Street Journal* researchers.

CARDS Will Benefit Investors

CARDS will allow FINRA to collect information in a standardized, automated format across all firms it oversees. Automating the data collection process promises the potential to deliver a number of significant benefits. The data and analytic capabilities of CARDS will enable FINRA to quickly identify fraudulent and abusive behavior and to take swift and responsive action. As a result, it is expected that FINRA will be better positioned to:

- Identify patterns of transactions that could indicate a problem broker-dealer or registered representative;
- More effectively monitor and respond to problem areas such as pump and dump schemes, suitability, churning, mutual fund switching and concentrations of high-risk securities; and
- Monitor, on an on-going basis, where firms consistently sell products that present higher risks to customers.

While the benefits to investors of an enhanced early warning system to identify problematic practices and shut them down before significant harm occurs are obvious, what may be less obvious are the benefits of a more efficient oversight system. Regulatory resources are scarce relative to the size, scope and complexity of the financial markets. A more data-driven and therefore efficient use of these resources will help regulators “do more with less” in their effort to protect investors and instill greater confidence in the capital markets.

We appreciate that CARDS is an ambitious undertaking and that FINRA is taking the steps necessary to ensure that it is done correctly and to minimize any disruption for the firms and individuals it oversees. FINRA has reviewed more than 800 comment letters submitted on the concept release and has collected information from six pilot and 11 “Sounding Board” firms that are helping to assess the impact of CARDS.

⁶ *Id.*

While we believe that the benefits to investors of CARDS are clear and persuasive, we also recognize that there are costs to any undertaking of this type. However, after an initial cost for the firms to comply, we see no reason why CARDS should result in any significant cost increase. Even the initial costs, spread out across accounts, are likely to be minimal. And, while this is outside our particular expertise, we would expect that CARDS over time should reduce costs associated with inspections and examinations and the data requests with which firms currently must comply.

Of particular concern to AARP is the security of sensitive personal financial data. However, this concern is mitigated by the decision to not collect personal identifying information, such as account names, addresses and social security numbers. Data security will be further safeguarded by the fact that CARDS data will not be linked to live accounts, thus providing no opportunity for outside access to individual accounts. In addition to these structural safeguards, we encourage FINRA to be vigilant in ensuring that the data it collects is protected through the highest possible security standards available.

Conclusion

AARP knows that for investors saving for a financially secure retirement, every dollar counts. Investors cannot afford to have their hard-earned dollars siphoned off in fraudulent or abusive investment schemes. FINRA is to be commended for seeking ways to more efficiently and effectively oversee broker-dealers and their representatives. Putting technology to work on behalf of investors by automating key regulatory functions is an important step forward. We urge FINRA to adopt the CARDS proposal.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Certner".

David Certner
Legislative Counsel and Policy Director
Government Affairs