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FINRA Moves to Protect Seniors and Other Vulnerable Persons

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FINRA has taken another step to protect against what it calls "financial exploitation of vulnerable individuals or individuals with diminished capacity." These include seniors (at least age 65) and persons (at least age 18) with a mental or physical impairment preventing them from protecting their own interests.

Effective April 10, FINRA revised its sanction guidelines so that all disciplinary proceedings it brings are required to determine whether a firm "exercised undue influence over the customer." FINRA's sanction guidelines do not prescribe fixed sanctions for particular violations. Instead, they list 19 potentially mitigating or aggravating factors that "should be considered in conjunction with the imposition of sanctions with respect to all violations."

Previously, FINRA decisions acknowledged that the exercise of undue influence is an aggravating circumstance "on a case-by-case basis." The revision "makes clear" that the sanction guidelines "contemplate coverage for vulnerable individuals or individuals with diminished capacity, which may include senior investors."

FINRA's revision of its Sanction Guidelines follows recent actions to shore up FINRA rules to protect seniors and other vulnerable persons. Among other things, FINRA amended its Rule 4512 to require members to make reasonable efforts to obtain, from each customer for whom they maintain an account, specified information about a "trusted contact person." FINRA also adopted a new Rule 2165 that permits, but does not require, FINRA members to place temporary holds on disbursements from customer accounts. *See* "SEC Approves FINRA Efforts to Protect Seniors and Other Vulnerable Persons," *Expect Focus*, Vol. I, 2017.