

## Industry embraces call for uniform senior designations rule

The new model rule on senior designations could save multi-state firms from having to comply with varying state requirements if many states adopt the rule, those in the industry say.

The **North American Securities Administrators Association** recently released its model version of the rule, and called on all states to adopt it (*BD Week*, April 7, 2008). As an incentive for states to jump on board, a Senate bill has been introduced that would provide grant money for states that adopt the rule.

The rule specifically prohibits the use of designations, or titles, that misrepresent the holder's experience advising senior citizens on securities issues. It also sets standards that designating organizations would have to meet for the title conferred.

The move by NASAA can help avoid "a patchwork of 50 state rules," said **Marin Gibson**, managing director and general counsel of the **Securities Industry and Financial Markets Association**.

"In many ways, our firms of course are not the problem since we're already licensed, subject to FINRA rules, and state and federal securities rules," Gibson said. "Some of what the state regulators have seen to date has really not been our folks, but it just

makes sense for them to have one consistent rule for everybody to be subject to."

Gibson said many states have broad anti-fraud authority that probably already would prohibit the use of misleading senior designations, but "as long as many state legislators and legislatures are going to be out there doing this in a ... specific new way, uniformity is important."

Also lauding the move toward a uniform rule was **David Bellaire**, general counsel and director of government affairs for the **Financial Services Institute**, who said it would be "a step forward" if NASAA members implement it. The problem of misleading senior designations has been more serious in the selling of insurance, he said, and he's pleased the rule could be applied to that area, too.

Bellaire said most firms draw up a list of accrediting organizations that reps may use to get senior designations, and the model rule would cause firms to be "careful and conservative" in compiling that list. In addition, firms will need to make sure that those who say they earned a designation actually did so, he said. They also need to ensure that those people who did earn designations follow the requirements needed to keep the designation active, Bellaire said.

The model rule "will demonstrate to the firms that they need to have some sort of procedures or education in place for their reps that are seeking designations," said **Chip Arvantides**, executive vice president of **FrontLine Compliance, LLC**.

### Desire for a list

Arvantides also said he would like to see NASAA go "a step further" than what the rule provides, and offer designating organizations a way to go through a NASAA vetting process and get on a list provided by NASAA. Organizations not on the list wouldn't necessarily be considered non-compliant, but the list would help broker-dealers select designating organizations, he said.

*(Senior designations rule, continued on page 2)*



## Senior designations rule *(cont. from page 1)*

The model rule says there's "a rebuttal presumption" that a designating organization meets the rule's requirements if the designating organization is accredited by **The American National Standards Institute, The National Commission for Certifying Agencies**, or is on the **Department of Education's** list entitled "Accrediting Agencies Recognized for Title IV Purposes."

Another perceived shortcoming of the rule was mentioned by FSI's Bellaire. He said a provision in the rule could be interpreted as meaning the firm is responsible for making sure that a person who received a designation actually has the training implied by it. Raising this issue in a December comment letter to NASAA about a draft version of the model rule, the Financial Services Institute said, "In effect, this provision requires [independent broker dealer] firms to second guess the designating authority's assessment of the financial advisor's education, training and/or experience. FSI believes that IBD firms should be allowed to rely upon the legitimate designating authority's assessment of the financial advisor's qualifications and successful completion of the required program."

But NASAA *did* revise part of the rule in response to concerns raised by SIFMA, Gibson said. An early version covered the use of the term "senior" in a title as if it always referred to senior citizens. SIFMA suggested tweaking it so as not to impinge on "senior" being used sometimes to connote, say, a position of seniority in a firm, she said. ■

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