

LEGAL ALERT

February 5, 2018

New FINRA Rules Address Financial Exploitation of Seniors

By Shirley B. Whitenack, Esq.

The Securities Exchange Commission (“SEC”) has approved the adoption of new FINRA Rule 2165 (Financial Exploitation of Specified Adults) effective February 5, 2018 which permits brokerage firms to place a temporary hold on the disbursement of funds from certain customers’ accounts when there is a reasonable belief of financial exploitation. The initial temporary hold can last for up to 15 days and the brokerage firm can extend the hold for an additional 10 days.

The definition of “Specified Adults” covers customers who are 65 years of age or older and adults 18 years of age or older who have mental or physical impairments that render the person unable to protect his or her own interests. Rule 2165 does not apply to securities transactions but would apply to the disbursements of the proceeds of such a transaction where there is a reasonable belief of financial exploitation. In addition, the temporary hold would not apply to disbursements where no such belief is present, such as ordinary bill paying.

The SEC also approved an amendment to Rule 4512 effective February 5, 2018 which requires brokerage firms to make reasonable efforts to obtain the name and contact information for a trusted contact over the age of 18 for the non-institutional accounts of all investors. The brokerage firm must advise the customer that it will be authorized to disclose to the trusted contact information about the customer’s account to address possible financial exploitation as well as other information regarding the account holder. The designation of a trusted contact is optional on the part of the account holder.

If you have any questions or request additional information, please contact any member of Schenck, Price, Smith & King’s Elder and Special Needs Law Practice Group: Shirley B. Whitenack, Regina M. Spielberg, Gary Mazart, Meredith L. Grocott and Crystal West Edwards.

DISCLAIMER: This Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client.

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