



NASAA ENFORCEMENT REPORT

2015 REPORT ON 2014 DATA

PREPARED BY:
NASAA ENFORCEMENT SECTION
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About NASAA's Enforcement Section

NASAA's Enforcement Section tracks and addresses trends in securities fraud and dishonest/unethical behavior among securities professionals, and facilitates collaborative investigations by NASAA members. The Section acts as a point of contact for federal agencies such as the U.S. Securities & Exchange Commission, the Federal Bureau of Investigation, and the Department of Justice, as well as self-regulatory organizations.

The Enforcement Section oversees the activities of seven Project Groups, including: Enforcement Training, Enforcement Publications, Technology, Litigation Forum, Oil/Gas Offerings, Exempt Offerings Investigations, and Enforcement Zones.

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Summary

The North American Securities Administrators Association (NASAA) conducts an annual survey of its U.S. members to gather enforcement data, to clarify trends in securities fraud and investor protection, and to elucidate other regulatory issues. This year, 49 U.S. jurisdictions responded to the survey request. The data, statistics and trends included in this summary give a general overview of state enforcement efforts for the 2014 fiscal or calendar year. This report undoubtedly undercounts many statistics since it does not include enforcement statistics from every jurisdiction on each survey question posed.

Highlights

- The survey revealed several important trends in investor protection and securities regulation, including continued reliance upon state regulators to provide front-line enforcement resources in protecting investors from unregistered salespeople and unregistered offerings.
- State securities regulators received **11,340 complaints** from aggrieved investors and conducted **4,853 investigations** in the 2014 reporting period.
- **More than 2,000 administrative, civil and criminal enforcement actions** involving more than 3,000 **respondents and defendants** were reported by U.S. jurisdictions.
- State securities regulators continue to pursue and prosecute serious offenders. Activity and assistance in criminal prosecutions resulted in **1,629 years in prison sentences** and **503 years of probation**.
- U.S. jurisdictions **imposed more than \$400 million in investor restitution orders** and levied **finances or penalties of almost \$174 million**.
- State securities regulators continue to report unregistered securities and unregistered investment professionals as the most common complaint from investors in their jurisdictions.
- The Internet and the lifting of the ban on general solicitation continue to pose challenges in differentiating fraudulent and lawful offerings.
- U.S. jurisdictions continued their efforts to keep unqualified persons out of the industry and to subject problematic applicants to heightened supervision.
- For jurisdictions that kept statistics on victim age, nearly one-quarter of enforcement actions involved senior victims in the 2014 reporting period.

Enforcement Statistics at a Glance	
Complaints Fielded by Regulators	11,340
Investigations	4,853
Enforcement Actions (administrative, civil, and criminal)	2,042
Investor Restitution Ordered	\$405 million
Fines, Penalties, and Costs Assessed	\$174 million
Jail Time Sentenced	1,629 years
Licenses Withdrawn, Denied, Revoked, Suspended or Conditioned:	3,585

Table 1: Enforcement Statistics at a Glance

Overview

The North American Securities Administrators Association (NASAA) conducted its annual enforcement survey beginning in March 2015. The survey traditionally gauges the extent and nature of enforcement efforts by state securities regulators, and identifies trends and issues in national investor protection.

Forty-nine NASAA members responded to this year's survey request. (Canadian members of NASAA participate in a different enforcement survey; an overview is provided on page 7). This is a strong response and the numbers generated thereby are an effective portrayal of nationwide enforcement efforts by U.S. NASAA members.

Each state records and classifies data in accordance with that state's practices; accordingly not all jurisdictions responding have provided input for all questions. The aggregation of the data, however, demonstrates the broad coverage that NASAA member jurisdictions provide in the United States in support of investor protection and in deterring future harm.

Methodology

As noted above, 49 U.S. jurisdictions provided responses for the 2015 survey.¹The 2015 survey requested information on:

- the number of complaints or inquiries received;
- the number of investigations and actions conducted or initiated;
- penalties, payments, costs and restitution resulting from enforcement actions;
- the results of state securities regulators' efforts and assistance to prosecute criminal violations, including years sentenced and years of probation; and
- the type of actions brought, the most common products or practices at the core of these actions and the most common type of actors targeted by these efforts.

Investigations, Actions, Investor Relief & License Activity

Investigations

In the 2014 reporting period, state securities regulators conducted 4,853 investigations. These formal investigations are supplemented by extensive efforts to informally resolve complaints, referrals or other items in the enforcement area. State securities regulators continued to partner with other law enforcement agencies and other securities regulators in 2014, reporting 584 outgoing referrals to sister agencies and 624 incoming referrals from those agencies.

Annual Investigations by State Securities Regulators	
Reporting Year	Number of Investigations
2014	4,853
2013	5,302
2012	5,865
2011	6,121
2010	6,356
2009	6,565

Table 2: Annual Investigations

Enforcement Actions

Investigations conducted by state securities regulators led to more than 2,000 enforcement actions reported by U.S. NASAA members, including administrative, civil and criminal actions against over 3,000 respondents or defendants.

Annual Reported Enforcement Actions by State Securities Regulators				
Survey Year	Total	Administrative Actions	Civil Actions	Criminal Actions
2014	2,042	1,634	137	271
2013	2,184	1,740	182	262
2012	2,496	1,925	232	339
2011	2,602	1,970	196	436
2010	3,475	2,018	324	1,133
2009	2,294	1,604	306	384

Table 3: Annual Enforcement Actions

Investor Relief & Measures of Accountability, Fines & Penalties

As part of state securities regulators' continued focus on the investors in their jurisdictions, U.S. NASAA members ordered wrongdoers to return more than \$400 million to aggrieved investors.² Additionally, U.S. jurisdictions levied fines or penalties of almost \$174 million.³ The states also required that respondents pay almost \$42 million in costs or expenses.

Investor Relief & Measures of Accountability			
Survey Year	Investor Restitution	Fines & Penalties	Costs Recovered
2014	\$405 million	\$174 million	\$42 million
2013	\$494 million	\$ 71 million	\$4 million
2012	\$694 million	\$115 million	\$42 million
2011	\$2.2 billion	\$126 million	\$165 million
2010	\$14.1 billion	\$171 million	\$32 million
2009	\$4.7 billion	\$245 million	n/a ⁴

Table 4: Measures of Accountability

In addition to monetary sanctions, jurisdictions reported a continued high level of specific and general deterrence by imposing criminal sanctions. Collectively, criminal defendants were sentenced to a total of almost 1,629 years of incarceration through the efforts of state securities regulators.

Years of Incarceration	
Survey Year	Years of Incarceration
2014	1,629
2013	1,816
2012	1,134
2011	1,662
2010	1,134
2009	1,786

Table 5: Years of Incarceration

State regulators also took important action to deny unscrupulous actors from the licensed community and limit the activity of licensees. While not all license requests are withdrawn because a state regulator is about to take action to deny or limit the license, many requests for withdrawal are withdrawn as a state is preparing to take action to deny, suspend, or revoke a license.

Licenses Withdrawn, Denied, Revoked, Suspended or Conditioned		
Survey Year	Licenses Withdrawn	Licenses Denied / Revoked / Suspended or Conditioned
2014	2,857	728
2013	2,498	1,159
2012	3,564	736
2011	2,796	774
2010	2,595	647
2009	3,353	531

Table 6: Licenses Withdrawn, Denied, Revoked, Suspended

Types of Cases

The survey also sheds light on the nature of enforcement actions by state regulators and the firms or individuals targeted in those actions.⁵ The survey requested that jurisdictions report the “type” of violation that triggered or was at the center of an action.⁶ In the relevant reporting period, 746 state enforcement actions involved fraud, traditionally marked by material misrepresentations, false statements or a scheme designed to defraud or deceive an investor.⁷

While these fraud cases could, and in many instances did, involve registered brokers or investment advisers (or their agents or representatives), it appears that the majority of these fraud cases featured unregistered individuals selling unregistered securities. Of the 746 reported cases of fraud, 484 involved unregistered securities, and 675 actions involved unregistered firms or individuals.

Overall, the single most common target of state securities enforcement actions was unregistered individuals, followed by unregistered firms. A total of 746 reported actions involved unregistered individuals and unregistered firms. Enforcement actions against licensed individuals and firms are broken down in the following table.

Actions by Type of Industry Participant	
Actor	Number of Reported Actions
Broker-Dealer Firms	156
Broker-Dealer Agents	230
Investment Adviser Firms	146
Investment Adviser Representatives	190
Insurance Firm or Agent	59

Table 7: Actions by Type of Industry Participant

In addition to the enforcement actions taken by U.S. NASAA members, the 2015 survey indicates that the states launched hundreds of investigations against registered members of the securities industry. The states reported 442 investigations into dishonest or unethical practices by securities licensees, 334 investigations involving books and records violations, 157 investigations involving suitability, and 99 investigations involving failure to supervise. Dozens of other investigations looked at cases of unauthorized trading, churning, and selling away.

Types of Products & Schemes

State securities regulators also reported the most common products or schemes that led to or were at the center of enforcement investigations.⁸ A single investigation can involve more than one type of product or scheme. For example, Ponzi schemes, which were the top reported product or scheme, and affinity frauds, which fell just outside the top five, often go hand in hand.

Most Reported Products & Schemes 2014 <i>(In order of frequency of investigations reported by states)</i>	
1.	Ponzi Schemes
2.	Regulation D, Rule 506 Offerings
3.	Real Estate Investments, including Promissory Notes
4.	Internet Fraud including, Social Media and Crowdfunding
5.	Oil and Gas Offerings

Table 8: Most Reported Products and Schemes

Senior Investor Protection

The survey also sought data on the type and nature of enforcement actions involving senior investors. In states that track victims by age, roughly one-quarter of enforcement actions during the survey period involved senior victims. As with many statistics throughout this report, this figure is necessarily conservative; the actual number of cases involving senior abuse is undoubtedly greater. The data also reveal that cases tend to involve more than a single senior victim; jurisdictions that track victim age reported an average of 3 senior victims per case.

Unregistered securities, in the form of promissory notes, private offerings or investment contracts, continue to be the most common product involved in senior abuse cases. More than half of all reported enforcement actions that involved a senior victim involved an unregistered security, and more than 2.5 times as many cases with a senior victim involved an unregistered security as involved a traditional security.

The data also indicate that affinity fraud and unregistered securities scams disproportionately affect seniors. For example, in states that track victim age, more than half of enforcement actions involving unregistered securities involved a senior victim. Similarly, more than half of the enforcement actions involving affinity fraud in jurisdictions that track victim age involved senior victims. Variable and equity-indexed annuities, viaticals or life settlement products, and free meal investment seminars also appear as continuing problems for senior investors.

CSA's 2014 Enforcement Report

In late 2014, the Canadian Securities Administrators (CSA) released its 2014 Enforcement Report outlining how Canadian securities regulators actively are working to protect investors and the integrity of Canada's capital markets.

The CSA's 2014 Enforcement Report brings into focus the enforcement work done by CSA members against those who commit wrongdoing in Canada's capital markets. CSA members concluded cases against 255 individuals and companies.

Highlights of the 2014 Enforcement Report

Key highlights of the *2014 Enforcement Report*:

- Cases concluded against 144 respondents by contested hearings, 78 respondents by settlement agreement, and 33 respondents by court decision.
- Cases concluded resulting in:
 - Fines and administrative penalties of more than \$58 million;
 - Almost \$66 million in restitution, compensation and disgorgement; and
 - Jail sentences totaling seven and a half years handed down to five individuals.
- 105 cases commenced against a total of 149 individuals and 106 companies.
- 24 freeze orders issued against a total of 57 individuals and companies, involving more than \$18 million in assets in bank accounts.

The full 2014 Enforcement Report is available from the CSA website www.securities-administrators.ca and from the websites of various CSA members. The CSA, the council of securities regulators of Canada's provinces and territories, co-ordinates and harmonizes regulation for the Canadian capital markets.

REFERENCE NOTES

¹ The survey request asked each state administrator to provide statistics using that state's most recent full reporting year. Some states collect and report data on a calendar basis, while others collect data on a fiscal year basis. For the 2015 survey, 32 responding jurisdictions reported statistics from the 2014 calendar year, and 17 jurisdictions provided numbers from the 2013-2014 fiscal year.

² This figure probably understates the total amount of investor restitution ordered. Not all jurisdictions provided a restitution amount. This figure also does not account for unilateral and unreported returns to investors by firms or investigative targets.

³ This figure does not include the multi-million dollar settlement amounts paid to seven states in connection with the resolution of investigations into the packaging, marketing, and sale of residential mortgage-backed securities.

⁴ States were not asked to report costs recovered in the survey of 2009 activities.

⁵ Because state securities enforcement actions are complex and often involve multiple issues, a single case might involve several different types of actions or respondents. Therefore, cases reflected in the states' responses to the 2015 survey often fit into, and thus were recorded, in more than one category or case type.

⁶ 41 jurisdictions reported information on the types of violations or practices involved in their enforcement actions.

⁷ Section 501 of the 2002 Uniform Securities Act, titled "General Fraud," states: "It is unlawful, in connection with the offer, sale or purchase of a security, directly or indirectly: (1) to employ a device, scheme, or artifice to defraud; (2) to make an untrue statement of material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading; or (3) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person."

⁸ 37 jurisdictions reported information on the products or schemes involved in their enforcement actions.