

NEW MISSOURI LAW GIVES SECURITIES BROKERS IMMUNITY FOR PROTECTING SENIORS

A new law providing Missouri securities brokers with new options for attempting to protect elderly customers who might be victims of financial fraud goes into effect tomorrow (August 28, 2015). The "Senior Investors Protection Act" seeks to protect senior citizens or disabled individuals with assets in brokerage accounts, and also provides immunity to brokers against civil suits over their actions.

As the population ages and more investors are plagued by diminished capacity and increased exposure to financial exploitation, securities brokers in Missouri and nationwide are faced with a variety of difficult circumstances. Brokers are generally required to honor a customer's orders, and also generally prohibited from discussing their customer's holdings with anyone who is not specifically authorized on that account. These rules too often lead to circumstances in which unscrupulous family members, friends or others take advantage of seniors.

Under the new law, a brokerage firm can notify and provide documents to senior service agencies, including the office of the Missouri securities commissioner, and also contact family members to alert them to the firm's concerns. If the broker properly notifies the agencies, it can refuse to make disbursements even if ordered to do so by its customers. The law provides specific immunity from civil liability in those circumstances, freeing the brokers to exercise reasonable care in serving their customers.

The law does NOT authorize these same actions or provide similar immunity for licensed investment advisers in Missouri, meaning a large section of the financial advice community is not protected. The new law also only references immunity from "civil liability," and does NOT directly address the arbitration clauses that are found in most every brokerage customer account agreement. FINRA, the self-regulatory organization that administers the industry's arbitration program, did not testify on the Missouri bill.

Reporting and taking action under the new law will require close adherence to

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its provisions, and so broker-dealers and financial advisors seeking to engage the new law (and its immunity features) should consult legal counsel.