Statement of the Securities Industry and Financial Markets Association
Before the Texas Senate Business & Commerce Committee on
Protecting Older Texans from Financial Exploitation
January 26, 2016

Good morning. My name is Kim Chamberlain, and I am a Managing Director and Associate General Counsel for the Securities Industry and Financial Markets Association (SIFMA). SIFMA is a national trade association which represents hundreds of securities firms, banks and asset managers, and many of our members have a strong presence in Texas. In fact, there are nearly 61,000 people in the State currently working in the securities industry and more than 517,000 people employed by entities falling within the broader category of finance and insurance.

Financial exploitation of our senior population is a huge problem, and I sincerely appreciate the opportunity to be here today. As you may know, SIFMA and our member firms have been actively working to protect our senior clients against fraud and abuse. Among other things, we have: worked closely with state and federal legislators and regulators to advance investor protection laws, regulations and rules; collaborated with scientific and academic experts to raise awareness and understanding; worked with our member firms to develop innovative business practices; and shared ideas and concerns at SIFMA's annual Senior Investor Forum.

The scope of this threat is staggering. It has been reported that 1 in 5 Americans aged 65 or older have been victimized by financial fraud, and the financial loss due to such exploitation is an estimated $2.9 billion annually. Sadly, these numbers are likely low as it is also estimated that only 1 out of every 44 instances of financial abuse is actually reported; this is partly because the majority of senior financial exploitation is committed by a senior's family, friends or caregivers and many victims are reluctant to report such abuse.

Unfortunately, this problem is only likely to grow as the American population ages. Nationally, while seniors currently represent more than 13% of our population, that number is projected to increase to 18% by 2030. Texas will likewise see dramatic growth. According to a recent report by the Office of the State Demographer, 2.6 million people or 10.3% of the population were age 65 or older in 2010; this number is projected to increase to 9.4 million people or 17.3% of the population in 2050.

What types of exploitation are we, as an industry, seeing? Here are just a few examples:

(1) The Jamaican Lottery Scam. The Jamaican Lottery is arguably the most common and most successful financial scam. Fraudsters call U.S. seniors telling them that they have won a large sum of money, and all they need to do to collect their prize is pay upfront processing fees or taxes. The caller begins in a friendly manner, although over time the calls may become threatening and the collection tactics aggressive. One SIFMA member firm received an urgent call from a client looking to have $30,000 delivered to her house because "the man is here at my door to collect it." The police were called, and the runner was arrested. Indeed, the FTC got 30,000 complaints in 2012 about this scam, and it is conservatively estimated that losses total more than $300 million annually.

(2) The Nigerian Letter Fraud. Here, the recipient of the letter or e-mail is being given the "opportunity" to share in a percentage of the money that the sender is trying to get out of Nigeria (or some other country). The recipient is encouraged to send tax money and/or his or her bank information for ease of transfer. One SIFMA member firm went to great lengths to try to convince a client not to send the money but was ultimately unsuccessful in its efforts.

(3) Contest Scams. The Jamaican lottery is not the only contest scam. One firm had a 79-year-old woman who was swindled out of $37,000 when scam artists told her she had won two new Mercedes and needed to pay taxes on them. A few weeks later, she wanted to take another $100,000 out of her account because she had allegedly won $22 million in the Publisher's Clearing House Sweepstakes and needed to pay the taxes before the money was sent.

(4) Non-existent Investment Products. Fraudsters are also often trying to sell seniors non-existent investment products over the phone. One firm had a client who wanted to transfer $2 million out of her account to invest in "Merrill Gold Safety Reserve," which upon investigation by the financial adviser was found to be a scam. The client was talked out of it only to come back a few weeks later wanting to transfer money to purchase another non-existent "Merrill" product.

(5) Abuse by Family Members and Friends. Perhaps most worrisome, 55% of financial abuse in the U.S. is committed by family members, caregivers and friends. Questions may arise about large, out of character disbursement requests or aggressive POA tactics. For example, one member firm had to deal with a "bad nephew" who was a known gambler and drug addict and who was taking large sums of money out of his 87-year-old uncle's account. Another firm had a 70-year-old client whose married neighbor was granted power of attorney and made the beneficiary of the client's IRA. When a large withdrawal request was made, the financial adviser contacted the client's son who discovered that the neighbor had opened joint credit cards, put a second mortgage on the client's house, and cashed in some of the client's insurance policies.

We believe that brokers' ongoing relationships with their clients and broker-dealers' ability to actively monitor client accounts put the industry in a unique position to be able to spot possible exploitation. We strongly encourage the Committee to include the following concepts in any legislation it pursues:

- Broker-dealers should be given a voluntary reporting pathway that would allow them to report suspect transactions to designated state entities, such as the Texas State Securities Board and the Department of Family and Protective Services, without fear of liability.

- Broker-dealers should be permitted to voluntarily reach out to a client's close family members without fear of liability when there is a good faith concern about exploitation, fraud, or cognitive decline. This should include nieces and nephews to help ensure family outreach options where a client has no living siblings, children or grandchildren.

- Broker-dealers should be permitted to place a temporary hold on suspect transactions and/or disbursements without fear of liability. A temporary hold period would give state agencies time to investigate the suspected abuse and should be extendable if the investigation has not been concluded or the risk has not been resolved when the initial hold period lapses.

- Broker-dealers should be able to permanently stop a suspect transaction once it has been determined to be exploitative or fraudulent by the firm or an appropriate state agency.

- New legislation should not limit a Broker-Dealer's ability to act under existing law or through agreement with the client.

Passage of such legislation would make Texas a national leader on this issue, joining Washington State, Delaware and Missouri as the first states to provide these safeguards.

Thank you for your consideration. I am happy to answer any questions you may have.