



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION

FEDERAL POLICY AGENDA

NASAA Federal Policy Agenda

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About NASAA

Organized in 1919, the North American Securities Administrators Association (“NASAA”) is the oldest international organization devoted to investor protection. NASAA is a voluntary association whose membership consists of the securities regulators in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands (collectively referred to below as “state securities regulators”), as well as the 13 provincial and territorial securities regulators in Canada and the securities regulator in México. In the United States, NASAA is the voice of state securities regulators that protect investors, promote responsible capital formation, and support inclusion and innovation in the capital markets. U.S. NASAA members license firms and their agents, investigate alleged violations of securities laws, file enforcement actions when appropriate, and educate the public about investment fraud. NASAA members also participate in multi-state enforcement actions and information sharing. For more, visit: <https://www.nasaa.org/>.

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NASAA Leadership Message

We are honored to lead NASAA’s longstanding efforts to protect investors, promote responsible capital formation, and support inclusion and innovation in our capital markets. A big part of these efforts is our ongoing maintenance and advancement of NASAA’s robust federal policy agenda.

NASAA takes a collaborative approach to agenda setting. NASAA periodically solicits ideas from its membership, as well as a broad range of external stakeholders. NASAA’s Board of Directors, comprised of securities regulators, approves our agenda. Throughout this process, we strive to uphold NASAA’s core principles for pro-investor policymaking (see Section I).

NASAA similarly takes a collaborative approach to education and advocacy. As our recent advocacy illustrates (see Section II), we engage with a broad range of stakeholders, including academics, congressional offices, consumer groups, peer regulators, trade associations, and other external partners. In addition, we offer technical expertise and other advice to congressional offices, peer regulators, and other policymakers. We appreciate invitations to testify before Congress and serve on advisory committees such as the SEC Investor Advisory Committee or as speakers at events.

As explained in Sections III and IV, we believe that fostering better data and stronger regulatory coordination are critical to the preservation of our regulated capital markets. We urge Congress and the SEC to join us in prioritizing these efforts.

Contact Kristen Hutchens, NASAA’s Director of Policy and Government Affairs, and Policy Counsel, at khutchens@nasaa.org, to start a dialogue.



Andrew Hartnett
2022-2023 President
Iowa



Claire McHenry
2022-2023 President-Elect
Nebraska



Melanie Senter Lubin
2022-2023 Past President
Maryland

Section I: NASAA's Core Principles for Pro-Investor Policymaking

- 1. We should strengthen, not weaken, the government's ability to prevent harm to investors.** A critical component of investor protection is registration. Registration triggers processes whereby investors receive important information about firms and their activities, products, and professionals. Access to this information empowers investors to educate and defend themselves. Registration also triggers processes whereby regulators can examine activities, entities, products, and professionals for compliance with rules that are designed to prevent investor harm and otherwise strengthen our securities markets. Examinations of registrants support the efforts of regulators and many financial institutions to prevent investor harm before it occurs. While a particular legislative or regulatory effort to exclude or exempt a specific type of firm, product, or professional from regulation may make sense when considered in isolation, such proposals must be considered within their broader context—specifically, at this point, the extent of the registration gaps in our markets makes it extremely difficult to prevent investor harm.
- 2. We should rebuild trust in our regulated capital markets by enhancing fair treatment and transparency.** For various reasons, some people lack trust in our public and private securities markets. Based on our experience working with victims and conversations with other key stakeholders such as peer regulators, we believe that the proliferation and persistence of scams and offers that are 'too good to be true' are key contributing factors to the erosion of trust. As a general matter, NASAA believes that state and federal government officials should rebuild trust in our regulated capital markets by ensuring that, on a reliable basis, investors receive fair treatment and all the necessary information to make an investment decision. Indeed, to rebuild trust, state securities regulators work tirelessly to educate entrepreneurs and investors, register professionals and their products, write rules, conduct examinations, and, if needed, hold firms and professionals accountable for harming investors. We welcome outreach from members of the public and private sectors who want to join our efforts to ensure that the United States remains the country with the deepest, most liquid markets for generations to come.
- 3. We should preserve and protect the securities regulatory framework from additional erosion and use the elasticity of it to bring new practices, products, and professionals into the framework.** State securities regulators oppose legislative or



regulatory changes that create unnecessary complexities and costs for the maintenance and application of the well-established, time-tested framework in the United States for securities regulation. Importantly, we oppose the creation of new terms for the federal securities laws that are redundant of existing ones such as security, investment contract, broker, dealer, investment adviser, and so forth. We also oppose the establishment of new self-regulatory organizations (“SROs”) specific to a product or industry, especially when said industry has demonstrated the inability to observe high standards of care and honor. SROs can divert resources away from public regulatory agencies and exacerbate communication and coordination challenges that regulators and regulated entities and professionals face. Moreover, the SRO model requires the regulator to regulate its own members. Ultimately, investors and taxpayers will bear the costs of unnecessary changes to the securities regulatory framework. Of note, with respect to digital assets, we urge policymakers to consult with us before concluding that state securities laws would or should not apply. In our experience, the securities laws apply to most tokens and other digital assets.



4. We should continue to encourage coordination and collaboration between state and federal regulators.

State securities regulators work with the SEC and CFTC, as well as other federal agencies and offices, on many issues and matters. However, more can be done to foster real-time, joint efforts to protect investors, promote responsible capital formation, and support inclusion and innovation in our capital markets. For example, the SEC, the state securities regulators, and FINRA could do even more to update each other and, as appropriate, other market participants on market trends and developments identified through examinations and other channels of information. As a general matter, we would welcome the execution of additional memoranda of understanding and the establishment of additional processes to facilitate enhanced coordination and collaboration between state and federal regulators. Ultimately, investors and taxpayers benefit when we all work together in a positive and effective manner.



- 5. We oppose legislative or regulatory changes that would restrict the role of state securities regulators in capital formation further.** State securities regulators regularly witness firsthand the value that comes from having small businesses engage directly with state regulators when raising capital. This engagement helps entrepreneurs better understand their options for raising capital and helps them avoid compliance missteps. In addition, engagement with state regulators deters fraud and other misconduct that can harm business owners and investors alike. Last, this engagement facilitates investor access to information necessary to make informed investment decisions, thus enhancing the fairness and efficiency of our capital markets. While the SEC has made greater efforts in recent years to engage with entrepreneurs, in particular through the work of the Office of the Advocate for Small Business Capital Formation, this work is not a substitute for the work of the states. Any further erosion of the state authority to register offerings with the states, require notices to the states of securities transactions, and otherwise promote responsible capital formation within their states is simply dangerous for businesses, investors, and our capital markets.
- 6. We oppose legislative or regulatory changes that would restrict the role of the SEC in capital formation further.** State securities regulators oppose policies designed to expand the opaque, minimally regulated private markets. Expanding these markets would exacerbate an already critical problem for our nation and our capital markets—nobody, including businesses, investors, legislators, and regulators, has a clear line of sight into these private securities markets. In these dark markets, all but the most sophisticated, well-funded investors lack access to adequate information about the businesses and operations of the private companies in which they are investing. Public and private companies alike struggle to account for private companies when they conduct risk assessments for themselves and as applicable provide disclosures. Last, regulators and legislators, who are charged in different ways with overseeing these markets, lack the basic information necessary to know if the private markets are operating in a fair, orderly, and efficient manner. In fact, they lack information necessary to know if the next financial crisis is coming. This combination of blindfolds undermines our shared goal of having free markets that, because of regulation, are fair, orderly, and efficient. Passing legislation or adopting rules to further reduce the information the government has regarding private offerings and funds would only make it more difficult for the government to sustain stable markets.

Section II: Examples of Recent Advocacy by NASAA

- **Fostering Responsible Capital Formation**

- NASAA endorsed [the Private Markets Transparency and Accountability Act](#). This legislation would require the country’s largest private companies to register with the SEC and enter the public disclosure system that Congress established to maintain fair, orderly, and efficient capital markets in the United States for generations to come.
- NASAA [urged the SEC’s Small Business Capital Formation Advisory Committee](#) (“SEC SBCFAC”) and [Congress](#) to oppose legislative and regulatory efforts, including proposals in the discussion draft of the JOBS Act 4.0, that would restrict the role of state securities regulators in reviewing and registering small or smaller-dollar offerings. A state securities regulator serves as a non-voting member of the SEC SBCFAC.
- NASAA [urged Congress](#) to pass the Promoting Opportunities for Non-Traditional Capital Formation Act. This legislation would strengthen coordination between state securities regulators and the SEC’s Advocate for Small Business Capital Formation on education in, and outreach to, communities that are underrepresented in our securities markets.
- NASAA [called on Congress](#) to preserve the authority of state securities regulators to administer state franchise laws.
- NASAA [called on Congress](#) to pass the Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act of 2021.



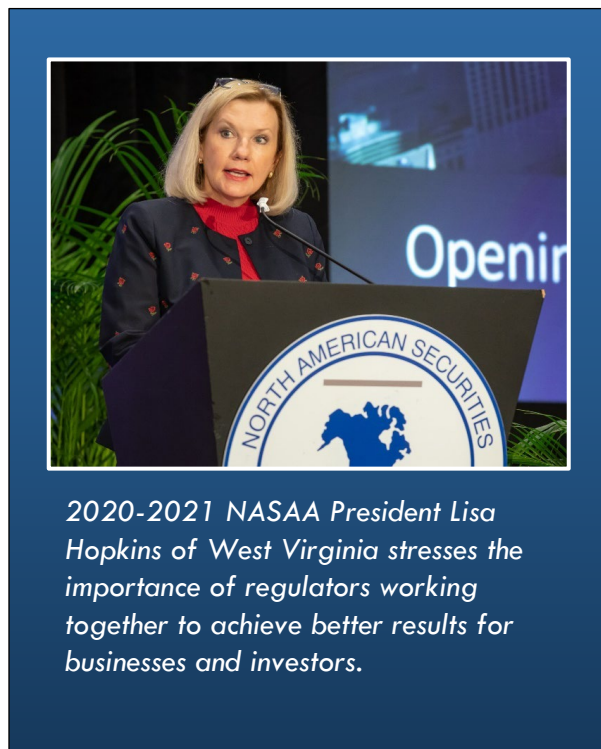
2021-2022 NASAA President Melanie Senter Lubin of Maryland testifies before the U.S. Senate Committee on Banking, Housing, and Urban Affairs on the top threats to investors and ways the government can better protect them.



Harvey McCleskey of Ohio and Noura Zaharis of Georgia, Co-Chairs of NASAA’s Committee on Diversity, Equity, and Inclusion, engage with thought-leaders on ways to better support minority and women entrepreneurs in capital formation.

- **Urging Preservation of and Compliance with Securities Laws**

- NASAA [published its annual Enforcement Report](#) to inform our collective efforts to protect investors, promote responsible capital formation, and support inclusion and innovation in our capital markets.
- NASAA [urged Congress](#) to strengthen the Digital Commodities Consumer Protection Act, particularly the preservation of state authority provision within it.
- NASAA [called on the U.S. Department of the Treasury](#) to consider the important role and work of state securities regulators as the agency shapes policy relating to digital assets.
- NASAA [submitted testimony](#) to the U.S. Senate Committee on Banking, Housing, and Urban Affairs on top threats to investors, including threats relating to digital assets, and ways the government can better protect investors.
- NASAA [called on Congress](#) and [the SEC](#) again to better prevent illegal insider trading.
- NASAA [urged Congress](#) to consider NASAA’s core concerns relating to digital assets policy proposals, including the preservation of the securities regulatory framework and the important role and work of state securities regulators within it.
- NASAA [called on Congress](#) to learn the right lessons from the FTX bankruptcy.



2020-2021 NASAA President Lisa Hopkins of West Virginia stresses the importance of regulators working together to achieve better results for businesses and investors.

- **Building on Our Longstanding Efforts to Protect At-Risk Investors**

- NASAA [urged Congress](#) to pass the Empowering States to Protect Seniors from Bad Actors Act. The legislation would establish a grant program for state securities and insurance regulators to do even more to protect older and at-risk investors from financial fraud.
- NASAA and AARP [spearheaded a recommendation](#) by the SEC’s Investor Advisory Committee (“SEC IAC”) to the SEC that sets forth several ways the SEC can do even more to better protect older and sometimes vulnerable investors from financial fraud. For example, the SEC IAC called on the SEC to strengthen the training of investment



2018-2019 NASAA President Michael Pieciak of Vermont briefs congressional staff and other stakeholders on NASAA’s federal legislative agenda.

professionals on senior financial exploitation. A state securities regulator serves as a voting member of the SEC IAC.

- NASAA’s Senior Issues Committee [launched a webcast series](#) dedicated to fostering ongoing learning and discussion among investment professionals, regulators, and other stakeholders regarding best practices for protecting at-risk investors from fraud and scams.
- NASAA [called on Congress](#) to request a study by the Government Accountability Office (“GAO”) regarding opportunities to strengthen the regulatory framework applicable to self-directed individual retirement accounts (“SDIRAs”). NASAA also [contributed to a recommendation](#) by the SEC IAC to the SEC relating to SDIRAs.
- NASAA [called on Congress](#) again to ban the use of mandatory arbitration agreements by broker-dealers and investment advisers.



Vice Chair of NASAA’s Federal Legislation Committee Justin Burse of Kentucky moderates a panel featuring the insights of Urska Velikonja of Georgetown University School of Law, former SEC Commissioner and Acting Chair Michael Piwowar, and former SEC Commissioner Kara Stein on regulatory coordination, innovation and inclusion in our capital markets, and other hot topics.

Section III: NASAA’s Priority Requests for Congress

Protect Investors of All Ages and Backgrounds

- Prevent investor harm by preserving the authority of states to register small offerings, especially ones under \$500,000
- Prevent investor harm by preserving the authority of states to require notices to the states of certain securities transactions
- Preserve the authority of states to hold bad actors accountable
- Require the federal financial regulators to establish a bad actors database and allow state and local governments to participate

Promote Responsible Capital Formation

- Fund and require a comprehensive study led by the SEC's Division of Economic and Risk Analysis on public and private markets
- Preserve state authority to register and regulate finders
- Require disclosure by the largest private companies
- Require the SEC's Office of the Advocate for Small Business Capital Formation to coordinate more with state securities regulators

Support Inclusion and Innovation in Our Capital Markets

- Preserve the securities regulatory framework as Congress considers legislation relating to digital assets
- Modernize the Financial Literacy Education Commission and make the states members of the commission
- Strengthen the SEC's Office of Investor Education and Advocacy efforts to reach investors
- Strengthen the SEC's definition of an accredited investor

Section IV: NASAA's Priority Requests Explained

1. **State and federal securities regulators need better data.** Regulators lack a clear line of sight into the private and dark areas of our capital markets. Without critical information relating to the private markets, regulators cannot prevent investor harm or maintain fair, orderly, and efficient markets as expected. They, as well as other policymakers, may struggle to perform cost-benefit analyses and otherwise use data to drive smart policy. As recently as 2022, Congress agreed on a bipartisan basis that the federal government should use data to make better decisions and achieve better results. See [Financial Data Transparency Act of 2022](#); see also [Foundations for Evidence-Based Policymaking Act of 2018](#). In that vein, Congress should empower securities regulators to obtain and use more data not less.

To begin to solve the data gap, we should do the following:

- ✓ **Congress should preserve the choice and authority of the states to register and regulate small offerings.** The [Small Entrepreneurs' Empowerment and Development Act](#) (SEED Act), which was reintroduced in the 117th Congress, would take away rights from state governments to protect investors and businesses. These rights are critical if policymakers expect regulators to prevent potential and actual harms to investors and entrepreneurs. Further, excluding states from reviewing offerings not typically reviewed by federal authorities is an invitation to fundraising mistakes by companies and fraud perpetrated against investors and entrepreneurs.
- ✓ **Congress should preserve the choice and authority of the states to require notices to the states of securities transactions.** The [Facilitating Main Street Offerings Act](#) and the [Improving Crowdfunding Opportunities Act](#), which were introduced in the 117th Congress, would prohibit state governments from using an important tool – regulatory notices called notice filings – to prevent harm to investors in their states. If these bills were to become law, [dozens of state governments](#) would no longer have the choice of using this tool for investor protection.
- ✓ **Congress should preserve the choice and authority of the states to register and regulate finders.** The [Unlocking Capital for Small Businesses Act](#), which was reintroduced in the 117th Congress, would exempt “finders” from registration under federal law and prohibit the states from registering “finders,” and impose a broker-dealer-lite regulatory regime on private placement brokers. In other words, Congress would be placing additional blindfolds on state and federal regulators. NASAA continues to encourage the SEC and FINRA to collaborate with state securities regulators on changes to the regulatory regime for finders.

- ✓ **Congress should require basic public disclosures by the largest private companies.** The [Private Markets Transparency and Accountability Act](#), which was introduced in the 117th Congress, would amend Section 12(g) of the Securities Exchange Act of 1934. The amendment would add additional triggers for when private companies must register with the SEC and make basic public disclosures. Specifically, private companies would now have to register with the SEC within 18 months after the last day of the first fiscal year ended on which the issuer has either a valuation exceeding \$700 million, excluding shares held by affiliates, or has at least 5,000 employees and \$5 billion in revenues.
- ✓ **Congress should require the SEC to prepare a comprehensive study on private and public markets, including without limitation the SEC’s latest data and research on the performance of offerings issued under Regulation A, Regulation D, and Regulation Crowdfunding, as well as the effect of recent changes to the SEC’s Accredited Investor definition.** It has been nearly sixty years since the SEC led the preparation of a comprehensive report on the state of our capital markets. See [Report of Special Study of Securities Markets of the Securities and Exchange Commission](#) (1963). Though Congress requests many studies from the SEC and the GAO, members of Congress rarely coordinate these requests. Among other benefits, a comprehensive study of the private and public capital markets would help regulators and legislators, as well as other stakeholders, better understand issues, such as whether and how to further amend the SEC’s Accredited Investor definition, within their greater context.
- ✓ **Congress should require the federal financial regulators to establish a bad actors database and allow state and local governments to participate in it.** The [Tracking Bad Actors Act](#), which was introduced in the 117th Congress, would require the establishment of such a database. This legislation would complement the bipartisan, decade-old [Stronger Enforcement Civil Penalties Act](#). This bill would update the SEC’s outdated civil penalties statutes and raise the financial stakes for repeat offenders of our nation’s securities laws.

2. Investors and taxpayers benefit when there is consistent, robust coordination between state and federal regulators. Regulators, particularly state securities regulators, the SEC, and the CFTC, communicate about and agree on many issues. However, more can be done to foster ongoing, robust communication and coordination.

To begin to solve the coordination gap, we should do the following:

- ✓ **Congress should require the SEC’s Office of the Advocate for Small Business Capital Formation to coordinate more with state securities**

- regulators on education and outreach, especially with respect to hard-to-reach communities.** State securities regulators are present in all 50 states and several U.S. territories. Many of them have relationships with organizations that specialize in reaching rural and other hard-to-reach communities. While the SEC already coordinates with state and local governments to some extent on education and outreach, the [Promoting Opportunities for Non-Traditional Capital Formation Act](#), which was introduced in the 117th Congress, would strengthen these efforts. Enhanced coordination would help all of us reach more entrepreneurs and small business owners, including ones in communities that are underrepresented in our markets.
- ✓ **Congress should modernize the Financial Literacy Education Commission (“FLEC”) and amend federal law to include a representative of state securities regulators on FLEC.** In 2003, the federal government established a commission to develop, implement, and maintain a national strategy on financial education. Congress tapped the Secretary of the Treasury to be the Chair of FLEC and included numerous federal government agencies and offices such as the SEC, the Federal Trade Commission, the Department of Education, and the Department of Defense as members of FLEC. However, Congress included no representatives of state governments on FLEC. Two decades later, much has changed in the way people communicate, save, and invest. There remains ample opportunity for the government to modernize and otherwise strengthen investor education. As Congress conducts oversight of FLEC and explores changes to FLEC’s enabling statute, Congress should consult state and federal securities regulators and include a representative of state securities regulators as a member of FLEC. [Learn more about FLEC.](#)