



NEWSLETTER

Plotting the Course

ISSUE 17 - JANUARY 2020

TOOLS TO EFFECTIVELY NAVIGATE THE REGULATORY MAZE

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New Year...New Challenges

MaryLynne Hixenbaugh, CCO



We are looking forward to an exciting and productive 2020

The new year brings new changes. One of our major challenges in 2020 will be Regulation Best Interest. Reg BI imposes a new standard, beyond existing suitability obligations, to act in the best interest of the retail customer at the time a recommendation is made without placing the financial or other interest of the broker/dealer or associated persons ahead of the interest of the retail customers.

The date for compliance to the new regulation is June 30, 2020, however, Reg BI has its own set of challengers. Last year, seven states (California, Connecticut, Delaware, Maine, New Mexico, New York and Oregon) along with the District of Columbia, the XY

Planning Network (a network of registered investment advisers), and Ford Financial Solutions filed petitions in the court of appeals seeking to have Regulation Best Interest vacated. The states are concerned about the conflicting standards applicable to broker-dealers and investment advisers. Recently former Sen. Christopher Dodd (D-Conn.) and former Rep. Barney Frank (D-Mass.), joined by 10 other current and former members of Congress, have filed a brief in the US Circuit Court of Appeals siding with the states.

Trustmont will continue to prepare for the compliance date of June 30, 2020, for Regulation Best Interest. Look for updates in the future.

Upcoming Mandatory Webinars

February 13, 2020
2:00-3:00 pm EST

May 14, 2020
2:00-3:00 pm EDT

August 13, 2020
2:00-3:00 pm EDT

November 12, 2020
2:00-3:00 pm EST

Save the Date!

Regulatory Items

UGMAs and UTMAs

Uniform Grants to Minors Act (UGMA)
Uniform Transfers to Minors Act (UTMA)

FINRA Rule 2090 (Know Your Customer) requires member firms and their associated persons to use reasonable diligence to determine the “essential facts” about every customer and “the authority of each person acting on behalf of such customer.” With regard to UTMA and UGMA accounts, the circumstances concerning the authority of a person acting on behalf of a customer will change when the account beneficiary reaches the age of majority.

Generally, when UTMA or UGMA accounts are established, the beneficiary (a minor) becomes the owner of the property at the time of the gift; however, the custodian manages and invests the property on the beneficiary’s behalf until the beneficiary reaches the age of majority. Once the beneficiary has reached the age of majority, the custodian is required to transfer the custodial property to the beneficiary. This means the beneficiary will need to take ownership of the UGMA/UTMA assets in an account in his or her own name. Once a

beneficiary reaches the age of majority, custodians are no longer permitted to effect transactions in, and withdraw, journal and transfer money from UTMA/UGMA accounts.

What you need to know:

- Notification should be made to custodians to advise them that beneficiaries are approaching the age of majority and inform them about upcoming transfers of custodial property in their UTMA/UGMA accounts, as well as any restrictions to the custodians’ trading authority after the beneficiaries reach the age of majority.
- A Client Profile Form is required for the new account being created for the beneficiary.
- All paperwork to effect the ownership change must be submitted to the home office of Trustmont for approval and processing.

A Best Practice is to record the beneficiary’s date of birth in your CRM or a spreadsheet when the account is opened. Alerts can then be set as a reminder to have the account transferred to the beneficiary at appropriate time.

AGE OF MAJORITY BY STATE

STATE	AOM	UTMA AOM
Alabama	19	21
Alaska	18	21
Arizona	18	21
Arkansas	18	21
California	18	18
Colorado	18	21
Connecticut	18	21
D.C.	18	21
Delaware	18	21
Florida	18	21 (25)*
Georgia	18	21
Hawaii	18	21
Idaho	18	21
Illinois	18	21
Indiana	18	21
Iowa	18	21
Kansas	18	21
Kentucky	18	18
Louisiana	18	18
Maine	18	18 (21)*
Maryland	18	21
Massachusetts	18	21
Michigan	18	18 (21)*
Minnesota	18	21
Mississippi	21	21
Missouri	18	21
Montana	18	21
Nebraska	19	21
Nevada	18	18-25**
New Hampshire	18	21
New Jersey	18	21
New Mexico	18	21
New York	18	21
North Carolina	18	21
North Dakota	18	21
Ohio	18	21 (25)*
Oklahoma	18	21
Oregon	18	21
Pennsylvania	18	21
Rhode Island	18	21
South Carolina***	18	21
South Dakota	18	18
Tennessee	18	21 (25)*
Texas	18	21
Utah	18	21
Vermont	18	21
Virginia	18	21 (25)*
Washington	18	21 (25)*
West Virginia	18	21
Wisconsin	18	21
Wyoming	18	21

* UTMA AOM “up to” age if transferor chooses.

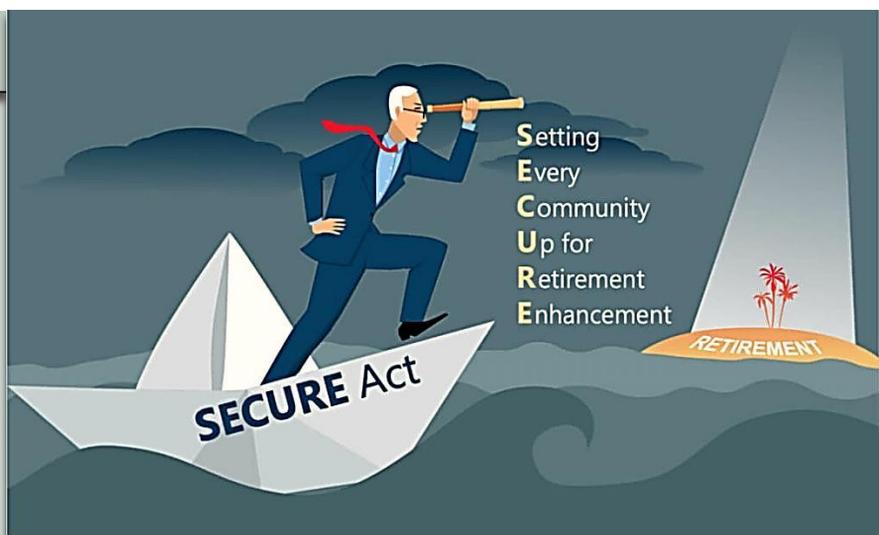
** Age depends on how property was transferred.

*** As of December 2019, South Carolina still uses the Uniform Gifts to Minors Act (UGMA) to govern its custodial account laws. Although similar, UGMA contains several differences from UTMA.

Regulatory Items

The Setting Every Community Up for Retirement Enhancement (SECURE) Act became effective January 1, 2020. It represents the most sweeping set of changes to retirement legislation in more than a decade and may have the largest impact on retirement planning since the Pension Protection Act of 2006.

Here are some of the major changes created by the new law:



Stretch IRA Restrictions

The new law requires any beneficiary who is more than 10 years younger than the IRA owner or defined contribution plan participant to liquidate the account within 10 years of the account owner's death unless the beneficiary is a spouse, a disabled or chronically ill individual, or a minor child. This shorter maximum distribution period could result in unanticipated tax bills for beneficiaries who stand to inherit high-value traditional IRAs. These restrictions apply to deaths after 2019.

(RMD) Required Minimum Distribution Age Increasing to 72

The age 70½ trigger for taking a RMD is raised to age 72 for individuals who attain age 70½

after 2019. Under the effective date, an individual who attains age 70½ in 2019 will need to take RMDs for 2019 and 2020, even though he or she may not attain age 72 until 2021. However, an individual who turns age 70½ in 2020 will not be required to take an RMD until he or she turns age 72, which could be in 2021 or as late as 2022.

Post 70½ Contributions to Traditional IRAs

People who choose to work beyond traditional retirement age will be able to contribute to traditional IRAs beyond age 70½. Previous laws prevented such contributions.

Penalty-free Distributions upon the Birth or Adoption of a Child

The Act permits an IRA owner

or a defined contribution plan participant to withdraw up to \$5,000 penalty-free upon the birth or adoption of a child for distributions after 2019. (Regular income taxes will still apply, so new parents may want to proceed with caution.)

Other provisions of interest

Workers will begin to receive annual statements from their employers estimating how much their retirement plan assets are worth, expressed as monthly income received over a lifetime. This should help workers better gauge progress toward meeting their retirement-income goals.

529 account assets can now be used to pay for student loan repayments (\$10,000 lifetime maximum) and costs associated with registered apprenticeships.

Holding Periods for Non-Traditional ETFs

Inverse and Leveraged ETFs are designed to be used for relatively short-term investing and may not be appropriate for conservative or long-term investors who typically subscribe to "buy and hold" investment strategies. Because leveraged and inverse ETFs reset each day, their performance can quickly diverge from the performance of the underlying index or benchmark making it possible that significant losses could occur even if the long-term performance of the index showed a gain.

Anyone utilizing these products must complete continuing education designed around these products.

Regulatory Items

Cyber Security Tip

While many of us normally abbreviate years – for example, by writing 2019 as “19” – doing so in 2020 can be dangerous.

Because the last two digits of the date – “20” – are also the first two digits of the current century, writing just “20” allows people to modify the date backwards or forwards with a great deal of ease. Easy modification may be acceptable – or even preferable – in diaries, school notes, or personal correspondence, but, when it comes to checks and other important documents, it can be dangerous, and lead to fraud.

Unscrupulous folks can easily change dates to earlier dates. If you sign an agreement that requires you to make annual payments starting one year after the date of the contract, for example, and you date the agreement “1/6/20,” the counterparty could easily add “19” to the end of the date and demand that you make the first payment immediately, since the agreement commenced on “1/6/2019.”

Likewise, crooks can modify dates forwards. If you were the lender in the aforementioned example, the borrower could change “1/6/20” to “1/6/2021”

or some later date, and refuse to pay you when the first payment – or first series of payments – should have become due.

Similar risks apply to checks – a check dated “1/6/20” could theoretically be modified to any January 6th until 2100; if you stopped payment on a check written with an abbreviated date in 2020, you might need to close your account in order to prevent having to re-stop the check every 6 months for the rest of your life.



In general, for at least two reasons, it is better to write out the full date whenever you are writing a document with any legal significance – “January 6, 2020” or “6 January 2020,” not “1/6/20,” or even “1/6/2020”:

- Formats such as “1/6/20” are ambiguous and can lead to confusion and conflicts; while most Americans understand “1/6/20” to mean January 6, 2020,” for example, many people in other regions, and some folks in the United States,

interpret it to mean the 1st of June, 2020.

- It is much harder to unscrupulously modify a fully written date than to similarly change its equivalent numeric shorthand. “1/6/2020,” for example, can be modified to “11/6/2020” far more easily than “January 6, 2020” can be changed to “November 6, 2020”.) In fact, for similar reasons, single-digit dates should ideally be written with a preceding zero (“January 06, 2020” instead of “January 6, 2020”) - but, for cultural and other reasons, few people are likely to follow such advice.

<https://josephsteinberg.com/>

Please make sure that you follow these policies to ensure that you are in compliance and to ensure that you protect your clients’ information:

- All electronic devices must be encrypted and password protected.
- All electronic communications containing sensitive client or client account information must be sent “secure”.
- Only visit “safe” sites on any electronic device you use for business purposes.
- Ensure that you have installed anti-virus software on your electronic devices.
- If any electronic device is lost or stolen contact Trustmont immediately.

Regulatory Items

Amended New York Regulation 187

Additional suitability and training requirements for life insurance and annuity sales in New York

At the end of 2018, the New York Department of Financial Services amended its Regulation 187 to impose a **Best Interest** standard on Financial Professionals selling annuity and life insurance contracts in the state of New York.

The amended version of New York (NY) Regulation 187 (Reg.187) will become effective on February 1, 2020 for new contracts to be issued in New York, as well as recommendations for post-issue transactions taking place with New York contracts related to both new and existing life insurance contracts. (Annuity recommendations have been required to comply with the Regulation since August 1, 2019).

Compliance Potpourri



Please remember that when you sign off on a **Client Profile Form** you are certifying that you have reviewed all of the information and, to the best of your knowledge, that the information is true and correct.

You **cannot** make this certification if you sign off on and date the application **before** your client completes and executes it.

When you are reviewing the information please be sure to use your common sense. If the client's choices are inconsistent or do not appear to be reasonable in light of other client information, stop and ask questions. For instance, a client objective cannot be "speculation" when the risk level is low. An application is only a starting point. If you

think that Trustmont needs to know additional information please attach a page with a further explanation.



You need to remember to check your email **daily**. It is our primary means of communications with all of you and contains very important information.



Please remember that we will not accept any documents that have been altered with "white out."

ANNOUNCEMENTS

UPCOMING MANDATORY WEBINARS



February 13, 2020
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Lacey Dochinez (*February 11*)

Missy Cosharek (*February 23*)

Jessica Hartman (*April 4*)