



# **ARM**

# **2017 Annual Educational Conference**

***NASAA Panel: State Issues  
Amelia Island, Florida  
March 7, 2017***



# Panel

*Melanie Lubin*  
*Maryland Securities Commissioner*

*Pam Epting*  
*Deputy Commissioner*  
*Florida Office of Financial Regulation*

*A. Valerie Mirko*  
*General Counsel, NASAA*

**Moderator**  
*Michele M. Van Tassel*  
*Credit Suisse*



# Today's Agenda

- **NASAA Policy Priorities.**
- **Update on IARD.**
- **Update on state legislation and rules.**
- **Expungement update.**
- **State enforcement and examination efforts.**



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# NASAA Policy Priorities



# Protecting Seniors

- NASAA Model Act to Protect Vulnerable Adults (approved Jan. 2016). Versions currently adopted in:
  - Alabama
  - Indiana
  - Louisiana
  - Vermont (via rule)
- Delaware, Missouri, and Washington each adopted legislation prior to the approval of NASAA's Model Act.



# Protecting Seniors

➤ Versions of the Model currently pending in:

Connecticut

Indiana (to add IAs)

Kentucky

Minnesota

Maryland

Montana

New Mexico

New York

North Dakota

Oregon



# Protecting Seniors

- Advocacy at federal level:
  - Senior\$afe Act
  - Comprehensive study of the costs of financial exploitation.



# **Preserve and Promote Protections for Retail Investors**

- **Fiduciary Standard for Broker-Dealers.**
- **Regulator Independence and Timely Action.**
- **Maintain and Expand Bad Actor Exclusions.**



## **Additional Policy Priorities**

- **Enhance Collaboration between Securities Regulators.**
- **Protect the Integrity of the Securities Markets.**
- **Maintain State Authority in Capital Formation.**



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# CRD/IARD UPDATE



# IAPD Update

- The IAPD site was redesigned:
  - Content now displayed in a new user-friendly layout
  - The site is now mobile responsive, 508 Compliant, and “https” was added to the URL
  - Users are now able to initiate a new search from any page on the site
  - Improved warning message when leaving IAPD
  - Improved abstract/summary on search engine results for IAPD links.
  - Added optional survey to provide feedback on the site.
  
- A new “Part 2 Brochures” button was added to firm’s online summary to provide the public with easy access to the firm’s brochure, along with a button to view the latest ADV depending on registration/reporting status.



# Forms Update

- NASAA CRD/IARD Steering & Forms and Process Committees are drafting possible U4/U5 amendments for future adoption.
- Ongoing collaboration with FINRA.
- Recommendations for changes are being evaluated by the regulatory and industry communities.



# **STATE LEGISLATION & RULES UPDATE**



# Update: Legislation & Rules\*

**Arkansas** – will be assessing \$300 filing fee for exempt reporting advisers and private fund advisers.

**Florida** – adopted a merger and acquisition broker registration exemption.

\***Disclaimer** – please note that some of this legislation has been proposed or introduced, but is not FINAL; further, please confirm with the applicable state regulator for confirmation prior to reliance on any legislation or rule change discussed here today.



# Update: Legislation & Rules\*

**Louisiana** – Legislation *will be introduced* in 2017 that will exclude individuals who have been registered as an IA rep or BD agent for more than 10 years from IA rep examination/certification requirements.

\*Disclaimer – please note that some of this legislation has been proposed or introduced, but is not FINAL; further, please confirm with the applicable state regulator for confirmation prior to reliance on any legislation or rule change discussed here today.



# Update: Legislation & Rules\*

**Maryland** – legislation *pending* to update provisions of the Maryland Securities Act that will include a broader registration exemption for employee stock plans, adoption of the federal exemption for certain Reg D Rule 506 broker-dealers, adopt NASAA’s model senior act, and create a dedicated funding mechanism for the Securities Division funded by a \$15 increase in broker-dealer agent fees from \$35 to \$50.

**\*Disclaimer** – please note that some of this legislation has been proposed or introduced, but is not FINAL; further, please confirm with the applicable state regulator for confirmation prior to reliance on any legislation or rule change discussed here today.



# Update: Legislation & Rules\*

**Wyoming** – *adopted* legislation to create a state registration requirement for investment advisers, becomes effective July 1, 2017, and expects to have proposed rules and FAQs available on its website soon.

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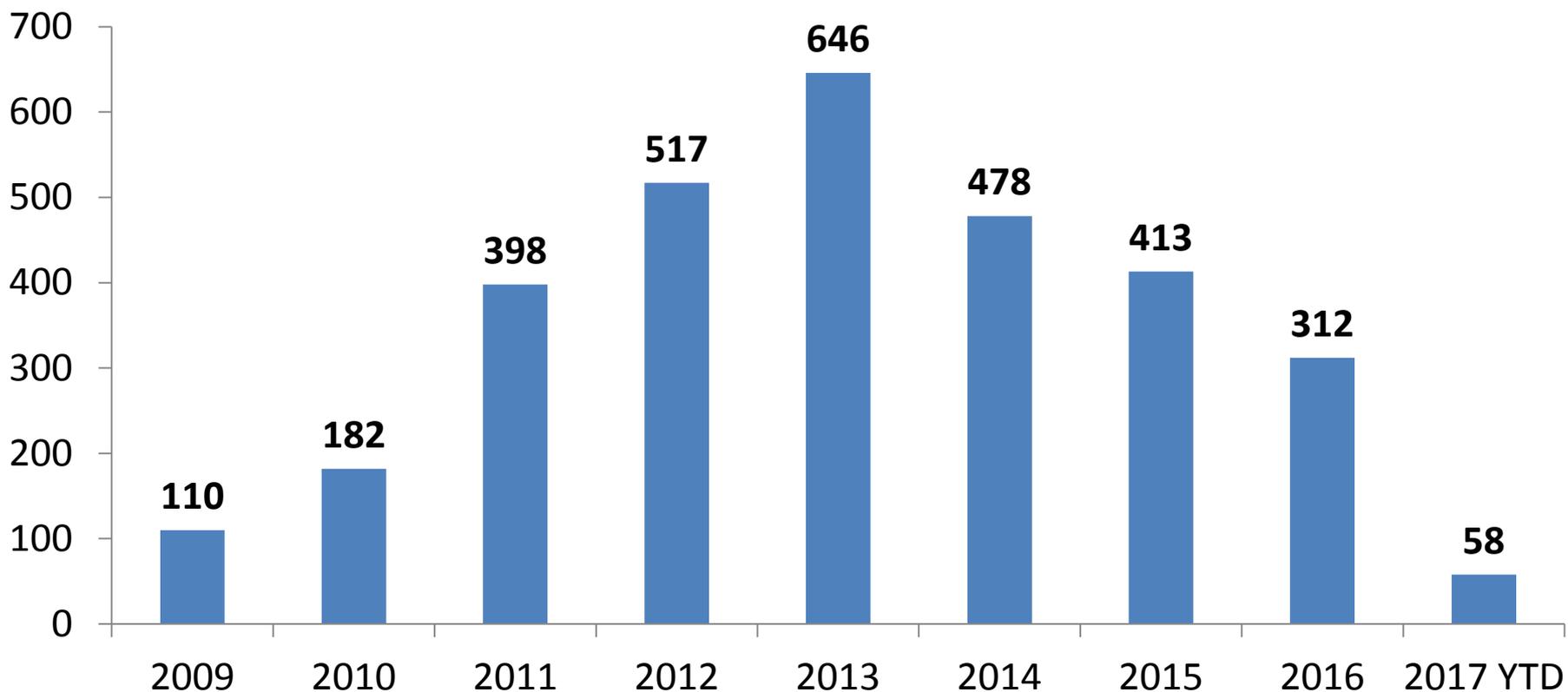


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# Expungement Update

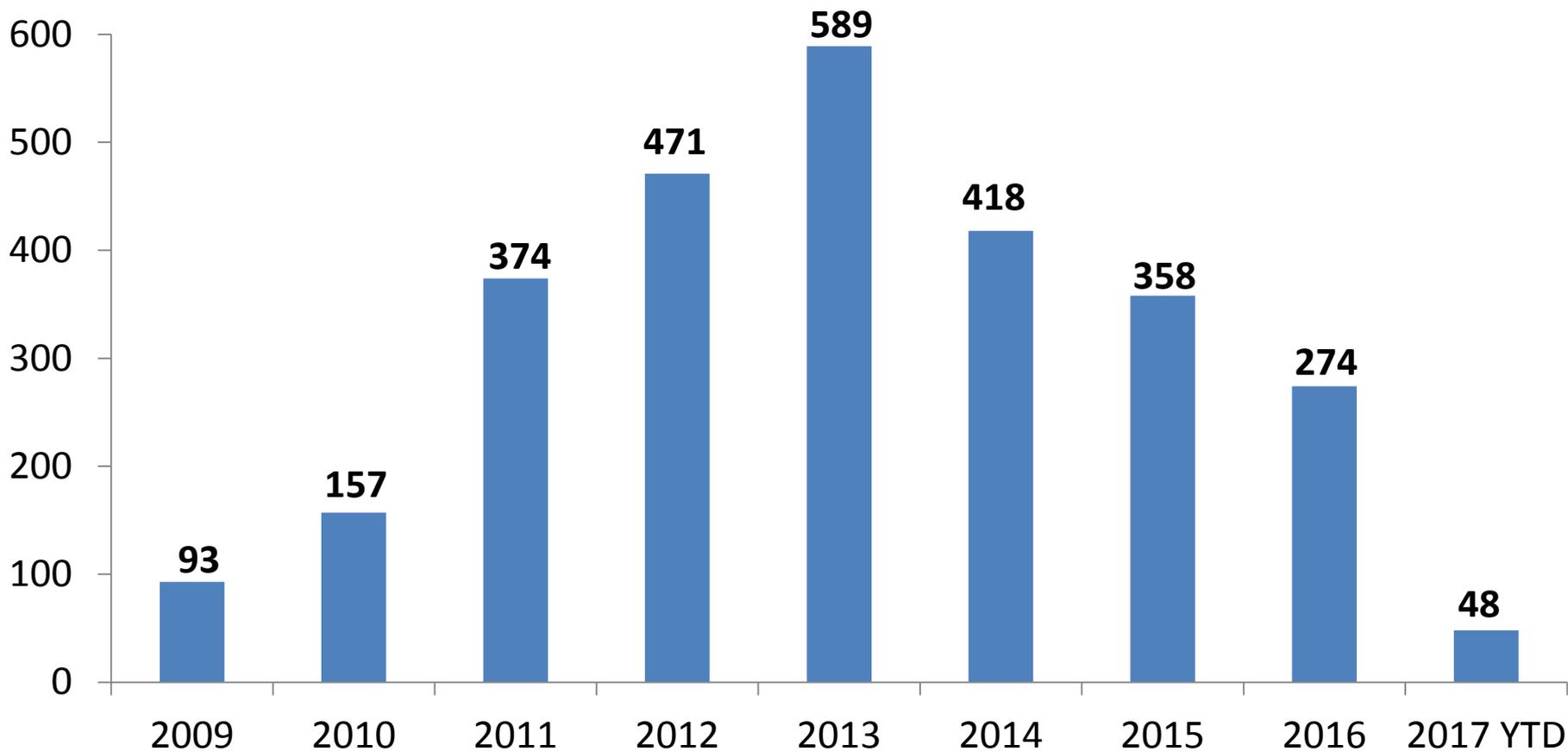


# Combined Rule 2080 Waiver Requests & Litigations



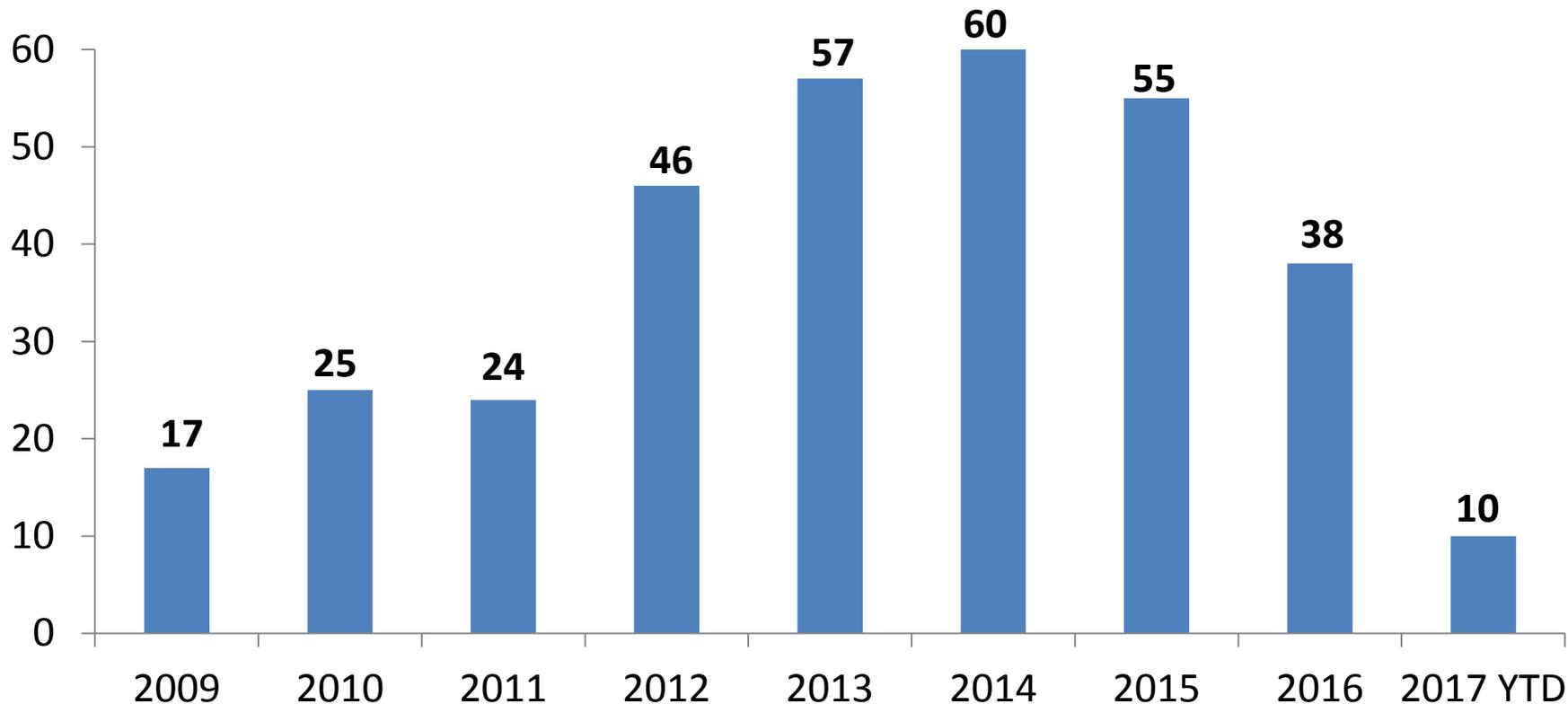


# Rule 2080 Waiver Requests





# Rule 2080-Related Litigation (No Prior Waiver Request)





# **Expungement Policy: State of Play**



# **STATE ENFORCEMENT AND EXAMINATIONS TRENDS**



# State Securities Regulators: Enforcement Activities

NASAA's 2016 Enforcement Report (re: 2015 activities) reflected that NASAA Members, the state securities regulators:

- Conducted 4,487 investigations.
- Took 2,074 enforcement actions resulting in
  - More than \$538 million in restitution ordered returned to investors
  - 1,282 years of incarceration, probation, and deferred prosecution
- NASAA Members' work also resulted in 3,728 licenses being withdrawn, denied, revoked, suspended or conditioned.



# NASAA 2016 Broker-Dealer Coordinated Examination

Sought information on policies, procedures, and training related to seniors and other potentially vulnerable customers

The study looked at several categories, including:

- Proactive assessment efforts by the firms related to senior investors;
- Training provided by broker-dealers to employees regarding senior investors, the identification of elder abuse, and diminished capacity;
- Supervisory policies, procedures and other controls potentially relevant to senior investors; and
- Potential suitability concerns identified by member jurisdictions.
- The preliminary results of this examination can be found on NASAA's website at <http://nasaa.cdn.s3.amazonaws.com/wp-content/uploads/2011/09/2016-BD-Coordinated-Exam-Preliminary-Findings.pdf>.



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# Questions?