

Key Notes from Susan Merrill's FINRA Executive Vice President and Chief of Enforcement Presentation at the SIFMA Compliance & Legal Division's General Membership Luncheon Jan. 22, 2009 at the Harvard Club in New York

Susan briefly discussed the Madoff case and the Enforcement Division's response. FINRA will be closely examining firms and individuals who referred or placed customer funds with Madoff or feeder funds. They have begun gathering relevant information from firms and their investigations are in their early stages.

She also highlighted some of the key Enforcement Division priorities:

- AML compliance was still a priority and she cited recent cases as examples of serious compliance deficiencies. She emphasized that firms needed to do more than focus only on the movement of cash, and must be monitoring movements of securities as well.
- The illegal sales of unregistered or restricted stock using on-line accounts with firms are also in their focus. She reminded firms that they are responsible for determining if such sales are occurring and their obligation to assure that sellers have satisfied all requirements for making the sales.
- Susan gave a brief update on the status of investigations involving ARS. To date they have 64 ongoing investigations mostly involving downstream firms. And have reached settlements in 8 other cases. Most of the cases involving downstream firms are based on findings that the firms had inadequate supervisory procedures for advertising or marketing materials and failed to provide proper training and education to brokers offering ARS to clients.
- Another concern was the marketing and sales of syndicated real estate products to investors without adequate disclosure or training.
- She noted that in this area as well as in the sales of mutual funds and other products firms were responsible for having in place proper supervisory controls for the use of materials provided by wholesalers.

- Susan also mentioned FINRA's Notice on credit for cooperation and that it played a major part in determining if or what type of enforcement action was necessary as well as what sanctions where appropriate.