NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.
750 First Street, NE, Suite 990
Washington, DC 20002
202-737-0900
www.nasaa.org

October 7, 2025

The Honorable Tim Scott (R-SC)
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
Washington, DC 20515

The Honorable Elizabeth Warren (D-MA)
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
Washington, DC 20515

RE: Twenty-Eight Scholars Call for the Preservation of the State Fraud-Fighting Role in Our Securities Markets

Dear Chairman Scott and Ranking Member Warren:

On behalf of the North American Securities Administrators Association, Inc. ("NASAA"),[1] I write to share with you a letter signed by 28 academic leaders in securities and financial regulation. They are urging Congress to oppose provisions in the Responsible Financial Innovation Act of 2025 ("RFIA") dated September 5, 2025, that would undermine the ability and authority of state securities regulators to fight fraud in this new federal market structure. I appreciate your continued attention to the many stakeholders who like NASAA are calling on Congress to prioritize and preserve state rights and authorities in these critical negotiations over the future of our securities markets.

Should you or your colleagues have any questions, please do not hesitate to contact Kristen Hutchens, NASAA's Director of Policy and Government Affairs, and Policy Counsel, at khutchens@nasaa.org.

Sincerely,

Marni Rock Gibson
NASAA President

Enclosure

[1] NASAA's membership includes state securities and commodities regulators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam, as well as regulators from Canada and México.

President: Marni Rock Gibson (Kentucky)
President-Elect: Elizabeth Bowling (Tennessee)
Past-President: Leslie M. Van Buskirk (Wisconsin)
Executive Director: Joseph Brady
Secretary: Stephen Bouchard (District of Columbia)
Treasurer: Jane Anderson, K.C. (Nova Scotia)
Directors: Melanie Senter Lubin (Maryland)
Jesse A. Devine (Maine)
F. Chet Taylor (Illinois)
Eric Slee (Mississippi)

October 7, 2025

The Honorable Tim Scott (R-SC)
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
Washington, DC 20515

The Honorable Elizabeth Warren (D-MA)
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
Washington, DC 20515

RE: Preserve the States' Fraud-Fighting Role in Our Securities Markets

Dear Chairman Scott and Ranking Member Warren:

The scholars signed below write to express opposition to provisions in the Responsible Financial Innovation Act of 2025 dated September 5, 2025, that would weaken vital investor protections and expose more Americans to fraud and abuse. As presently written, the bill would undermine well-settled principles of securities regulation, making it more difficult for regulators to stop online scams and other investment frauds, and would remove important guardrails designed to screen out bad actors from the securities marketplace.

First, Congress should remove Section 105, a provision that would redefine the investment contract test. Both federal and state securities regulators rely, sometimes exclusively, on this principle to act against the new and emerging frauds that are targeting Americans today. The provisions in Section 105 will be good for bad actors and harmful to investors. For example, fraudsters pushing pig butchering and Ponzi schemes, promissory note frauds, real estate swindles, and fraudulent oil and gas offerings will exploit loopholes and ambiguities created by this section such as new requirements that investors lose more than a minimum amount of money for a violation to exist, that the investment must be in an "enterprise or venture," and that profit-making efforts of the scheme do not include "ministerial, technical, or administrative" activities. Further, regulators will be sidelined in their efforts to address the constantly evolving nature of frauds and courts will be faced with addressing time sensitive requests for relief without the benefit of decades of case law resulting in yet further harm to investors. Given the epidemic of fraud being perpetrated against American investors, especially older investors, Congress should not be pursuing policies that will make it easier for scam artists to get away with their crimes and harder for law enforcement and regulators to act.

Second, Congress should not weaken the safeguards provided by state registration and licensing laws for securities firms and professionals. These laws promote trust in the capital markets by setting important professional conduct and knowledge standards. They empower regulators to perform critical gatekeeping functions on behalf of investors by screening out unscrupulous individuals. Additionally, state registration and licensing programs provide the investing public with access to important background information on securities professionals, allowing investors to review a person's or firm's regulatory history before trusting them with their life savings.

Third, Congress should not enact laws that weaken existing state anti-fraud authority. State securities regulators have been on the front lines in protecting retail investors for over a century. In the last decade, they have dedicated significant resources to help tackle the online scam epidemic that has spread across the country and resulted in the loss of billions of dollars to fraudsters across the globe. We do not believe it is Congress's intention to interfere with the states' ability to respond to residents' fraud complaints, but the stakes are too high for Congress to leave any room for doubt. To protect the thousands of fraud victims across the country who are being helped by states currently and to let scammers across the globe know that states are and will remain an integral part of the U.S. response to online scams moving forward, Congress should explicitly preserve state anti-fraud enforcement authority as it exists today.

In closing, Congress must ensure that, as it seeks to enact laws to regulate the offer and sale of digital assets, the vital protections highlighted above remain in place. Congress should, therefore, abandon its effort to redefine investment contracts, maintain the critical guardrails provided through state registration and licensing laws, and protect existing state anti-fraud authority. Investors deserve no less.

Sincerely,

Anat R. Admati, George G.C. Parker Professor of Finance and Economics, Graduate School of Business, Stanford University

Andrew K. Jennings, Associate Professor of Law, Emory University School of Law

Ann M. Lipton, Professor of Law and Laurence W. DeMuth Chair of Business Law, University of Colorado Law School

Arthur E. Wilmarth, Jr., Professor Emeritus of Law, George Washington University Law School

Benjamin P. Edwards, Associate Dean for Faculty Research and Development, William S. Boyd School of Law, University of Nevada, Las Vegas*

Carlos Berdejó, Professor of Law, Loyola Law School Los Angeles

Cary M. Shelby, Ralph Brill Endowed Chair Professor of Law, Chicago-Kent College of Law

Christine Lazaro, Professor of Clinical Legal Education, St. John's University School of Law*

Elissa Germaine, Associate Professor of Clinical Legal Education and Co-Director of Securities Arbitration Clinic, St. John's University School of Law*

George S. Georgiev, Professor of Law, University of Miami School of Law; Member, SEC Investor Advisory Committee

Gina-Gail S. Fletcher, Professor of Law, Associate Dean for Intellectual Life, Duke University School of Law

Hilary J. Allen, Professor of Law, American University Washington College of Law

James F. Tierney, Associate Professor of Law, Associate Dean for Academic Affairs, Chicago-Kent College of Law

Jay Brown, Professor, University of Denver Sturm College of Law

Jennifer Taub, Professor of Law, Wayne State University Law School

Jill I. Gross, Vice Dean for Academic Affairs and Professor of Law, Elisabeth Haub School of Law, Pace University*

Karen Woody, Professor of Law, Washington & Lee University School of Law

Melanie S. Cherdack, Associate Director, Investor Rights Clinic at the University of Miami School of Law

Onnig H. Dombalagian, John B. Breaux Chair in Law & Business and George Denègre Professor of Law, Tulane University School of Law

Patricia A. McCoy, Professor of Law, Boston College Law School*

Patrick Corrigan, Professor of Law, Notre Dame Law School

Paul Pfleiderer, Professor of Finance, Emeritus, Stanford University

Renee M. Jones, Professor of Law and Dr. Thomas F. Carney Distinguished Scholar, Boston College Law School

Scott Eichhorn, Associate Professor of Clinical Education, Investor Rights Clinic at the University of Miami School of Law

Simon Johnson, Ronald A. Kurtz Professor of Entrepreneurship, Massachusetts Institute of Technology Sloan School of Management

Todd Phillips, Assistant Professor of Legal Studies, Georgia State University Robinson College of Business

Urska Velikonja, J. Crilley Kelly and Terry Curtin Kelly Professor of Business Law, Georgetown University Law Center

Wendy Gerwick Couture, James E. Wilson Distinguished Professor of Law, University of Idaho College of Law*

* Title and school are provided for identification purposes only