



News Release

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FINRA Sanctions Fifth Third Securities, Inc., \$6 Million for Cost and Fee Disclosure Failures and Unsuitable Recommendations Related to Variable Annuity Exchanges

WASHINGTON — The Financial Industry Regulatory Authority (FINRA) announced today it has fined Fifth Third Securities, Inc., \$4 million and required the firm to pay approximately \$2 million in restitution to customers for failing to appropriately consider and accurately describe the costs and benefits of variable annuity (VA) exchanges, and for recommending exchanges without a reasonable basis to believe the exchanges were suitable. This is the second significant FINRA enforcement action against Fifth Third involving the firm's sale of variable annuities.

Variable annuities are complex investments commonly marketed and sold to retirees or people saving for retirement. Exchanging one VA with another involves a comparison of the complex features of each security. Accordingly, VA exchanges are subject to regulatory requirements to ensure that brokers have a reasonable basis to recommend them, and their supervisors have a reasonable basis to approve the sales.

FINRA found that Fifth Third failed to ensure that its registered representatives obtained and assessed accurate information concerning the recommended VA exchanges. It also found that the firm's registered representatives and principals were not adequately trained on how to conduct a comparative analysis of the material features of the VAs. As a result, the firm misstated the costs and benefits of exchanges, making the exchange appear more beneficial to the customer. By reviewing a sample of VA exchanges that the firm approved from 2013 through 2015, FINRA found that Fifth Third misstated or omitted at least one material fact relating to the costs or benefits of the VA exchange in approximately 77 percent of the sample. For example:

- > Fifth Third overstated the total fees of the existing VA or misstated fees associated with various additional optional benefits, known as riders.
- > Fifth Third failed to disclose that the existing VA had an accrued living benefit value, or understated the living benefit value, which the customer would forfeit upon executing the proposed exchange.
- > Fifth Third represented that a proposed VA had a living benefit rider even though the proposed VA did not, in fact, include a living benefit rider.

FINRA found that the firm's principals ultimately approved approximately 92 percent of VA exchange applications submitted to them for review. However, in light of the firm's supervisory deficiencies, the firm did not have a reasonable basis to recommend and approve many of these transactions.

Susan Schroeder, FINRA's Executive Vice President and Head of Enforcement, said, "FINRA remains vigilant in examining how member firms market variable annuities, which are complex products pitched to retirees and people saving for retirement. Returning \$2 million in restitution to harmed investors is a key part of FINRA's investor protection mission."

In addition, FINRA found that Fifth Third failed to comply with a term of its 2009 settlement with FINRA. In the 2009 action, FINRA found that, from 2004 to 2006, Fifth Third effected 250 unsuitable VA exchanges and transactions and had inadequate systems and procedures governing its VA exchange business. For more than four years following the settlement, the firm failed to fully implement an independent consultant's recommendation that it develop certain surveillance procedures to monitor VA exchanges by individual registered representatives.

In settling this matter, Fifth Third neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

Investors can obtain more information about, and the disciplinary record of, any FINRA-registered broker or brokerage firm by using FINRA's [BrokerCheck](#). FINRA makes BrokerCheck available at no charge. Investors may find copies of this disciplinary action as well as other disciplinary documents in FINRA's [Disciplinary Actions Online database](#). Investors can also call FINRA's [Securities Helpline for Seniors](#) at **(844) 57-HELPS** for assistance or to raise concerns about issues they have with their brokerage accounts and investments.

FINRA is dedicated to investor protection and market integrity. It regulates one critical part of the securities industry – brokerage firms doing business with the public in the United States. FINRA, overseen by the SEC, writes rules, examines for and enforces compliance with FINRA rules and federal securities laws, registers broker-dealer personnel and offers them education and training, and informs the investing public. In addition, FINRA provides surveillance and other regulatory services for equities and options markets, as well as trade reporting and other industry utilities. FINRA also administers a dispute resolution forum for investors and brokerage firms and their registered employees. For more information, visit www.finra.org.

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