GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
Department of Commerce
Division of Securities

FRANCINE A. GIANI
Executive Director

THAD LEVAR
Deputy Director

KEITH WOODWELL
Director, Division of Securities

October 4, 2012

MEDIA ALERT

Utah Division of Securities asks Seniors to watch out for Top 10 Investor Threats

"Division Top Ten List includes new threats and existing practices that could dupe investors"

(For immediate release…)

SALT LAKE CITY, Utah – Francine A. Giani, Executive Director of the Utah Department of Commerce and Keith Woodwell, Director of the Utah Division of Securities, announced today that the agency is warning seniors and investors of all ages to watch out for investment threats as many consumers look beyond Wall Street for profit opportunities. The Division of Securities has released a new list of Top Ten Investor Threats to educate citizens about investment fraud in conjunction with this year's "South Towne Senior Expo".

"As technology advances and the stock markets rise and fall, senior investors remain prime targets for investment fraud," stated Francine A. Giani, "Make sure your money is safe and sound by reviewing any investment offer and a professional's license with our Division of Securities."

The Utah Division of Securities has put together the following list of "Top Ten Investor Threats" to warn senior citizens and others on ways they can protect their nest egg. In addition to the list, Division staff will be presenting tips and answering questions in person at the annual Senior Expo at the South Towne Expo Center this week October 4-5, 2012.

"Fraudsters are constantly looking for their next act and this list of investor threats gives investors a heads up on how internet investing and other tactics may be used to prey upon their hard earned savings," cautioned Keith Woodwell.

Top 10 Investor Threats: Products and Practices

1) "Crowdfunding" and Internet Investment Offers. The 2012 JOBS Act passed by Congress this year loosened restrictions on how startup businesses and entrepreneurs bring their ventures to the investing market. When implemented next year, the law will allow small companies to offer investment opportunities to the public on "crowdfunding" websites. The JOBS Act also created new risks for investors who may not be provided with the same disclosures from companies as with traditional investments. Investors should note that even when the new "crowdfunding" rules take effect next year, they will not make these investments less risky. Small startups are among the riskiest of investment categories under the best of situations.

2) Gold and Precious Metals. The media hype surrounding gold, silver and other precious metals continues despite the risky nature of these investments and market signs that some precious metals are declining or increasingly turbulent. The promise of continued increases in value pitched by high-profile celebrities on television, radio or the Internet too often lure unsuspecting investors into any number of gold or precious metal scams. Often, schemes unfold with an unsolicited communication such as an email or telephone call offering to sell investors gold coins, bullion, bars or other forms of the precious metal that the promoter will hold in safekeeping for the investor.

3) Real Estate Investment Schemes. With headlines suggesting the U.S. housing market has reached its bottom price point, the popularity of investment offerings involving distressed real estate continues to rise. While legitimate real estate investments can play a role in a diversified portfolio, investors should be aware that bogus schemes related to buying, renovating, flipping or pooling distressed properties also very popular with con artists. Even with legitimate real estate investments, there are substantial risks with properties that are bank-owned, pending short-sale, or in foreclosure. In October 2011, Utah regulators took action against a man that solicited $4 million from investors to purchase and refurbish properties and provide a "diversified portfolio" of hard-money loans. Investors were given personal guarantees and promised minimum returns of 18 percent per year in an investment with risk that was "literally zero," but in reality, the funds were directed to a single, highly leveraged development project that went bust. As with all investments, careful vetting and due diligence is a must with real estate investments.

4) Risky Oil and Gas Drilling Programs. Promises of high profits associated with energy investments in oil and gas drilling programs may lure investors frustrated with a volatile stock market. However, investments in oil and gas drilling programs typically involve a high degree of risk and are suitable only for those who can bear risking their entire principal investment. Some promoters will conceal risks, using high pressure sales tactics and deceptive marketing practices to peddle worthless investments in oil wells to the investing public. Investors should conduct thorough due diligence and appraise their own tolerance for high risk when looking to purchase interests in oil and gas programs.

5) Promissory Notes. Promissory notes are often promoted as a safe and secure way for investors to earn returns in excess of those prevailing on conventional investments. Promoters flaunt high returns from private loan agreements, interim short term financing or startup capital opportunities. Investors must be wary of promises of security and liquidity in these promissory notes, which are very often false or overstated. Investments of this nature are highly speculative and the risk of total loss of the funds invested is high. But issuers often use notes and prior relationships with investors to downplay the true nature and risk of these investments. Sales of promissory notes are very often the favored investment vehicle for Ponzi schemes. As with all investment opportunities, investors are encouraged to make sure the security is registered with the Utah Division of Securities.

6) Scam Artists Using Self-Directed IRAs to Mask Fraud. Self-directed IRAs are now a common vehicle for fraud where promoters push a Ponzi scheme or other investment claiming it has been checked out by the IRA custodian and is therefore protected against losses. While a scam artist may suggest custodians analyze and validate investments, in reality these self-directed IRA custodians only hold the assets and do not evaluate the quality or legitimacy of any investment. Fraudsters may also exploit the tax-deferred benefits of self-directed IRAs, and know that financial penalties for early withdrawal may force investors to keep funds in a fraudulent scheme. Scam artists also pitch Self-directed IRAs to hold alternative and riskier investments such as real estate, mortgages, tax liens, precious metals, and private placement securities.

7) Unlicensed Salesmen promoting Liquidation Recommendations. A common complaint made to the Utah Division of Securities is when insurance-licensed firms or agents who are not registered to sell securities advise investors to liquidate their securities to fund annuity purchases. Senior citizens are often enticed to shift their investments from traditional securities to annuities with the promise of guaranteed income and an easy way to transfer the value of the annuity to beneficiaries upon death. While annuities may be appropriate retirement products for some, they are not suitable for all investors and the liquidation of securities holdings is not always the best approach to funding an annuity purchase. Consumers should note that most insurance agents are not licensed securities professionals and do not have the training to determine the suitability of liquidating securities products.

8) Regulation D Rule 506 Private Offerings. Fraudulent private placement offerings are one of the most common investment schemes seen in Utah due to a federal exemption which allows these investments without oversight from a state agency. While Regulation D Rule 506 offerings are used by many legitimate companies to raise capital, these investment offerings are high-risk and may not be suitable for many individual investors. With recent changes to advertising laws relaxing marketing requirement for these offerings, consumers can expect to see an increase in pitches for this investment.

9) Inappropriate Advice or Practices from Investment Advisers. The Bernie Madoff case shed light on undetected problems that can exist in an investment advisory firm. Investment advisers are licensed and owe their clients a fiduciary duty, unlike brokers that may pitch various securities. Madoff's case led to increased scrutiny from state regulators and the U.S. Securities and Exchange Commission. The 2010 Dodd-Frank Act transferred mid-sized investment advisers to primary supervision by Utah state regulators, rather than the SEC. Utah's Division of Securities has already begun working with these mid-sized investment advisers, assisting them in complying with state registration requirements and applying already robust examination programs.

10) Foreign Funds for Visas Scheme. Commonly known as an EB-5 Investment-for-Visa Scheme, investors are often told this is a "safe" investment due to an influx of foreign cash. The EB-5 immigration category is a 20-year-old program that grants a U.S. visa to foreign nationals who invest a minimum of $500,000 into a new commercial enterprise. Promoters may seek to market their scheme by highlighting an alleged connection with a federal jobs program. Similarly, investors may be intrigued by the prospect of big funding from investors in China or other foreign countries with economic power. Investors considering any enterprise with an EB-5 should make sure to obtain full information on every component of the venture, including all funding sources and the background of all promoters.

Investors should do business with licensed securities brokers and advisers and report any suspicion of investment fraud to the Utah Division of Securities by calling (801) 530.6600; toll free at 1.800.721.7233 or logging on to www.securities.utah.gov.

For media enquiries contact:
Jennifer Bolton
Public Information Officer
Utah Department of Commerce
(801) 530-6646 office
(801) 652-8322 cell
jenniferbolton@utah.gov
Follow us on Twitter *@UtahCommerce*