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MEDIA ALERT

Utah Division of Securities identifies Top Ten Investment Alerts for 2011

"Division asks Utahns to add financial resolutions to their New Years List"

(For immediate release…)

SALT LAKE CITY, Utah – Francine A. Giani, Executive Director for the Utah Department of Commerce announced today that the Division of Securities has released a top ten list of investment warnings for 2011. The list details fraudulent activity tracked by the Division of Securities over the past year and offers predictions on which investment schemes to watch for in 2011.

"Securities fraud continues to make headlines so we are asking citizens to add financial resolutions to their New Years list," said Francine A. Giani, Executive Director of the Utah Department of Commerce.

"During fiscal year 2010, our office had over $5.3 million dollars in total fines for fraud cases which is more than twice what was assessed in 2009," said Keith Woodwell, Director of the Division of Securities, "As consumers look to re-energize their retirement investments in the New Year, we urge investors to protect their nest egg by checking out a promoter's background and any investment offer with our Division."

Utah Division of Securities Top Ten Investment alert predictions for 2011

1. Affinity Fraud - Affinity fraud is when someone abuses membership or association with an identifiable group to convince a potential investor to trust the legitimacy of the investment. Common affinity groups include religion, ethnicity, profession, education, common handicaps, language, age and any other common likeness or shared characteristics that allow investors to trust members of the group. Rather than trusting a person or company due to a common affiliation with a given group, investors should obtain and review a disclosure document that explains the investment opportunity, the background of the management, the amount of money to be raised, the intended use of the money raised, and all the risks associated with making an investment. Upon receipt, investors should review all disclosures with an independent accountant, attorney, or investment professional to receive an unbiased opinion of the investment and the person offering the investment.

2. Inverse and Leveraged ETFs - Exchange-traded funds (ETFs) that offer leverage or that are designed to perform inversely to the index or benchmark they track—or both—are growing in number and popularity. While such products may be useful in some sophisticated, short-term trading strategies, they are highly complex financial instruments that are typically designed to achieve their stated objectives on a daily basis. Most leveraged and inverse ETFs "reset" daily, meaning that they are designed to achieve their stated objectives on a daily basis. Due to the effect of compounding, their performance over longer periods of time can differ significantly from the performance (or inverse of the performance) of their underlying index or benchmark during the same period of time, particularly in volatile markets. Therefore, inverse and leveraged ETFs that are reset daily typically are unsuitable for retail investors who plan to hold them for longer than one trading session.

3. FOREX Trading Programs - The most successful perpetrators of investment scams cloak their scam in a veil of legitimacy. FOREX is a term used to describe the legitimate foreign currency exchange market. The value of one nation's currency, as compared to another nation's currency, fluctuates on a continuous basis. These fluctuations can sometimes be quite dramatic and depend on innumerable complex factors. Due to the complexity of factors affecting the exchange rate of one currency to another, speculative FOREX trading bears a high level of risk. Despite the risk inherent in FOREX trading, there is always someone new who thinks they can simplify this complex market into a "fail-safe," "low risk" or "no risk" system that "guarantees" the preservation of capital and significantly higher rates of return than can be achieved investing elsewhere. These FOREX trading programs are often designed to automatically engage in currency trades based on predetermined events or algorithms that the designer has "developed after years of personal experience and working with the top minds in the financial services industry." The FOREX trading program designer may simply want an individual to purchase this trading system as an investment. Then it is up to the investor to generate the returns or, more likely, discover the flaws in the "fail-safe" system. The investor may also be enticed to invest directly with the individual who has developed this system, who will then trade on investors' behalf. Unfortunately, under these common circumstances, the person who collected the money may or may not ever invest the funds before they regrettably inform investors some tragic unforeseen event has caused the loss of capital. In fact, in several cases investigated by the Division of Securities, promoters who have promised "guaranteed" returns in their "proprietary" FOREX trading programs have simply stolen the money and spent it on supporting their own lifestyles.

4. Structured Investment Products - Structured investment products are securities derived from or based on a single security, a basket of securities, an index, a commodity, a debt issuance and/or a foreign currency. As the definition suggests, there are many types of structured products from market-indexed CDs offering protection of the principal invested, to a multitude of other structured notes and investments that offer limited or no protection of the principal. The Division's greatest concern with structured products is the investors' ability to fully understand the investment. Structured product disclosures are generally complex, making it difficult for the average investor to comprehend them. Without an effective understanding of the investment the investor can have a difficult time knowing the risks, costs, liquidity, and tax-consequences associated with the investment.

5. Promissory Notes - Promissory notes are a written promise to pay a specified amount, to a specific entity at a specific time or upon demand, with or without interest. Promissory notes offered to retail investors carry significant risk. When investing, higher returns are accompanied by a proportionate amount of risk. A track record of paying high interest and even repaying principal is not an assurance that you will get your money back if the company fails. Early investors in a Ponzi scheme often receive interest payments and in some cases principal. Promissory notes are rarely suitable for retirement money, or money borrowed against equity in ones home.

6. Start-up Companies on the Verge of "Going Public" - The lure of getting in on the "ground floor" of a hot start-up business is a classic temptation for investors. Promoters know this, but they also know the deal will be much sweeter if they can promise not only great profits, but also a way for the investor to cash out those profits relatively quickly, if necessary. Unscrupulous persons will often claim that the shares being sold to investors are on the verge of "going public" and will be freely traded on a major exchange. Frequently, promises are made that the shares will trade at a specific future price of $5.00 to $10.00 or more per share. In most of these cases, the reality is that no such public offering is being seriously pursued. "Going public," in the sense promised by these promoters, is actually a highly expensive and time-consuming process that requires considerable assistance from legal, accounting, and investment banking firms. Only larger, more well-established businesses are usually in a position to register their shares for trading on a major exchange and to pay the ongoing regulatory costs of public registration. If approached by promoters making such promises, investors should contact the Division of Securities and the Securities and Exchange Commission to verify that the required registration statements have been filed.

7. Investment Pools Purchasing Non-Performing Loans - By the time the housing bubble burst, the mortgage and banking industries had made many loans they shouldn't have. As the housing and commercial real estate markets folded, those loans (and pools of those loans) stopped producing revenue, freezing lines of credit in the economy and contributing to the Great Recession. Many financial institutions have since collapsed under the weight of these non-performing loans, leaving the institution's assets to be auctioned off to willing buyers. The Division of Securities has seen a rising number of Utahns seeking to earn big returns by purchasing these non-performing loans. However, as with all investments, investors should remember the risk-reward principal: the greater the potential return, the greater the risk. Despite the ads on late-night television and the Internet, or the stories told during seminars and sales pitches, turning a profit on non-performing loans is a complicated and difficult undertaking. Enterprising individuals have created funds to pool investor money and purchase these non-performing loans. These pooled investment funds present additional risk to the investor and should be fully disclosed in a disclosure document (e.g., private placement memorandum). Investors should read the disclosure document carefully before investing in any pooled investment fund and only invest funds which they can afford to lose. Lastly, investors should always verify whether their investment professional (or the fund manager) is properly licensed and whether the fund itself is properly registered by contacting the Division of Securities.

8. Automatic Trading Software Packages - Some investors have resorted to using a computer to make investing decisions for them. Companies are selling computer software programs that analyze the market and make trades for the investors. Typically, an investor purchases the program, sets up a brokerage account, and places money into the account. The computer program will “track” and “analyze” the market and decide which trades to make. The account is linked up to a brokerage firm which will then make the actual trades based on the computer’s recommendation, using the funds from the investor’s account. Often, a promoter will not just sell the computer package, but will have “openings” for investors to participate in the program. Investors are charged a start up fee and commission fees in addition to the investment funds. Investors should be cautious when evaluating offers of such automatic-trading software packages. The Division encourages investors to do their own due diligence on those selling the programs or promoting them and ensure that you are dealing with licensed professionals. The Division of Securities also cautions any purchasers of such packages against the common practice of allowing family members or friends to “piggy back” on the purchaser’s account by co-mingling funds. The purchaser of the package may expose himself to liability for acting as an unlicensed investment adviser.

9. Iraqi Dinars - Since the beginning of the Iraq War in 2003, speculators have sought to profit by purchasing Iraqi Dinars. Unfortunately, the likelihood of investors seeing any return on their dinars is slim to none. This scam comes in three parts: the hyped returns that play on an investor's greed, the deceptive practices of Iraqi Dinar dealers, and the fundamental misunderstanding of international finance. Currently valued around 1,200 dinars to 1 U.S. Dollar, any appreciation in the value of the Iraqi Dinar would theoretically generate profit, but many websites selling Iraqi Dinars boast these returns could reach up to 1000 percent. Investors need to understand these figures for what they are: speculation and hype. Websites selling dinars also exaggerate or misrepresent history as proof that such profits are possible, but history teaches a vastly different lesson. First, the rapid appreciation of any currency's value is extremely rare (the opposite is much more likely), meaning investors should consider this a long-term gamble not a short-term guarantee. Second, investors may confuse the appreciation of a currency's value with demonitization, which is the process of governments replacing their old currency with a new currency. While Iraq is not likely to do so again (Iraq demonitized from October 2003 to January 2004), exchanging old currency for new currency still keeps the value in U.S. Dollars roughly the same. So new currencies do not generally indicate a new value. While hard currency scams are not new, the methods have evolved. Currency dealers previously avoided regulation by relying on the currency's numismatic value (treating the currency as a collector's item), now these dealers often register with the U.S. Treasury as a Money Service Business (MSB). An MSB registration is nothing more than a check-cashier or a money transmitter; it does not reflect any experience in trading currency nor entail any qualifications on the part of the dealer. The reason dealers seek this meaningless registration is to lend legitimacy to their scam and avoid proper regulation, which would entail oversight and require full disclosure be made to investors. Additionally, since no exchange exists for the Iraqi Dinar, dealers can charge whatever they want to sell and buy back the dinars. Investors should fully understand that a small increase in value will not likely be enough to breakeven after these fees are considered. Worst of all, some websites have even been selling counterfeit dinars. Ultimately, however, the power of hard currency scams come down to a subject most are unfamiliar with: international finance. The market determines currency values based on numerous factors. In the case of Iraq, many of these factors are political and unpredictable, making dinars a risky bet at best. Of all the risks though, inflation is the greatest. As an economy improves, workers find jobs and earn more money, increasing demand and, therefore, prices. As prices rise, the value of the currency falls. Another inflationary pressure may be the Iraqi government itself. As the Iraqi government seeks to improve conditions, it may be tempted to monetize their debt (essentially, print more money) and drive inflation further. Combating inflation is difficult for established governments and economies, let alone one emerging from a dictatorship, a war, and an ongoing insurgency, so even the best scenario of an improved Iraqi economy may not lead to profits for investors in Iraqi Dinars.

10. Unsuitable Variable Annuity Sales Practices - Aggressive marketing of variable annuity insurance products are a concern, especially when seniors are targeted. Sales pitches, which are frequently offered in conjunction with free lunch seminars, are sometimes used in an attempt to scare or confuse investors by claims that these products will protect or insure them against any market losses. While variable annuities can be appropriate as an investment in some circumstances, investors should be aware of restrictive features including potential surrender charges, tax penalties for early withdrawals, and limitations on the insurance guarantees. Brokers and investment advisers recommending variable annuities must collect information about your financial status to assess if a variable annuity is suitable for your individual circumstances. Protect yourself by asking the sales person to explain guarantees, liquidity issues, fees and market risks.

Three questions every investor should ask:

1. Is the person offering the investment licensed? Find out by calling the Division of Securities at (801) 530-6600.

2. Is the stock offering registered? All securities sold in the state must be registered or exempt. Before you invest your money, call the Division of Securities to make sure it is a legitimate offering.

3. Did the promoter give you a written prospectus summarizing the investment? Did he or she give you a copy of the financial statements showing how the company is doing? Has the promoter disclosed his or her prior business success or any previous criminal convictions or bankruptcies?

The Seven most common warning signs of investment fraud are:

1. Promises of high returns. Any claim that you can double your money in six months is a fraud.

2. Claims that the investment is guaranteed or that it has little or no risk.

3. Pressure to invest immediately because there is a deadline or only a few openings left.

4. Encouraging you to borrow money from equity in your home to maximize the profit you can make. Because all investments involve risk, no legitimate securities broker will recommend using home equity to make an investment.

5. Vague descriptions about how your money will be used or what the company does.

6. Claims that other people have already checked out the investment and are investing. These may include well-known members of the community or people within your affinity group (your church, workplace, or service organization).

7. The assertion that this investment involves new technology that can solve a problem that big companies in this industry have been unable to solve (such as drilling for oil in new places, new pharmaceuticals that cure well-known diseases, or high-tech inventions).

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.

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