

**Securities Fraud
For
Louisiana Law Enforcement**

**Securities Products, Regulation,
Schemes and Scams**

**Louisiana Office of Financial Institutions (OFI)
Securities Division**



Verify with OFI Before Investing

1-877-516-3653 Free call

Email address: complaints@ofi.la.gov

Visit www.ofi.la.gov/SecuritiesInvestorEd.htm

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North American Securities Administrators Association (NASAA)***

Securities 101 for Louisiana Law Enforcement

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Free services from OFI to fight investment fraud

Deputy Chief	Len Riviere - Registrations, , Complaints, CRD Reports (confidential)
Compliance Investigator	Frank Panepinto – Investigations (confidential)
Training Program Manager	Nancy Boudreaux – Free speaker to groups throughout Louisiana

1. A free speaker on fraud awareness is available to groups and conferences throughout Louisiana. Her seminars could qualify for Continuing Ed credits, pending the agency head's approval. Please call Nancy Boudreaux toll-free at 1-877-516-3653 or email her at nboudreaux@ofi.la.gov to discuss her availability.
2. Call OFI to learn if your investment professional AND the security being sold are both registered with OFI to be sold in Louisiana. This includes solicitations from out-of-state.

NOTE: Unregistered people selling unregistered securities are the top two sources of investment fraud in Louisiana. However, there are Exemptions to registration with OFI.

Anyone may request a **free, confidential background check (i.e., CRD Report)** from OFI on investment professionals who are registered with OFI to legally sell securities. This includes solicitations from out-of-state.

A ***CRD Report*** includes the person's background, certifications, criminal history, employment history, bankruptcies, pending arbitrations and customer complaints.

For fastest response, e-mail requests for *CRD Reports* to complaints@ofi.la.gov. Be sure to include the person's legal name, company, city and state. NOTE: These requests aren't categorized as "complaints".

If email is not available, written requests can be mailed to:

Louisiana Office of Financial Institutions, Securities Division
8660 United Plaza Boulevard
Baton Rouge, LA 70809

3. Contact OFI with questions about exemptions to registration or suspicious investments.
4. Contact OFI to submit a confidential *Complaint* of securities fraud for a financial investigation to track the money flow. The official *Complaint* form needed is listed on OFI's website.
5. Visit OFI's website at www.ofi.la.gov/SecuritiesInvestorEd.htm regularly for monthly updates on Alerts, free tools and resources to help protect assets from con artists.



OFI does NOT:

- Give investment advice
- Make arrests
- Get money back for victims
- Prosecute cases

OFI cooperates with all Louisiana law enforcement agencies that pursue these actions.

Introduction

As a law enforcement official, have you ever been presented with a potential securities fraud case and thought, “What’s the best way to proceed with this?”

Financial fraud prosecutions are not the typical cases you probably handle on a routine basis. They are also not the type of case people normally associate with the word “crime”. Yet this type of criminal activity, if investigated correctly, can lead to felony convictions, prison sentences, and opportunities for victims to recover some of their lost money by way of restitution orders and asset freezes and forfeitures.

Securities fraud and other financial crimes can ruin lives and destroy families. But, victims of securities crimes are often confused about whether or not they’ve been duped and investigators could assist them in discerning what occurred.

State and federal securities regulators have the responsibility of regulating the sale of securities. The state securities regulator is sometimes referred to as “the local cop” for securities fraud.

Louisiana’s securities regulator is the

Louisiana Office of Financial Institutions (OFI), Securities Division

OFI is responsible for enforcing the Securities Law, including handling complaints, conducting confidential financial investigations of alleged violations, and making referrals to law enforcement officials for prosecution.

Violations of the Louisiana Securities Law are criminal felonies punishable by imprisonment at hard labor for up to 5 years, a fine of up to ten thousand dollars, or by both imprisonment and fine (Louisiana Revised Statutes 51:723A).

This handbook is designed to assist law enforcement in becoming more familiar with securities fraud. It contains basic information that will help to:

1. Make you aware of some of the elements of securities products and financial crimes;
2. Provide you with information on free resources available to you in these cases; and
3. Strengthen investigative techniques in regard to financial fraud cases.

OFI's goal is to work with you to ensure that securities fraud cases are treated with the same importance as any other crimes. And, we hope that by providing you with specific information on the framework of Louisiana securities laws and how they are violated, you will more readily view OFI as a resource and first point of contact for a complaint of investment fraud.

**Louisiana Office of Financial Institutions (OFI)
Securities Division**

**Call toll-free at 1-877-516-3653
OR locally at 225-925-4512**

**Please visit the *Investor Education* section of OFI's website at
www.ofi.la.gov/SecuritiesInvestorEd.htm
for free tools and resources in fraud awareness and investor protection**

**Email requests for information to OFI at complaints@ofi.la.gov
NOTE: The request is not registered as a complaint**

**8660 United Plaza Boulevard
Baton Rouge, Louisiana 70809**



Highlight of OFI's Enforcement Powers

1. **Subpoena power** - Authorized by Section 711(B); Commissioner can issue a subpoena as part of an investigation to determine whether a violation has occurred
2. **Assistance with search warrants** - Authorized by Section 710(C); investigators may execute search warrants if there is reason to believe a violation has occurred
3. **Criminal referrals to prosecutors/District Attorneys for prosecution** - Authorized by Section 713(A); Commissioner may refer evidence to a prosecutor if it appears a violation has occurred
4. **STOP Orders** – Authorized by Section 713(A)(1), the Commissioner has discretionary authority to issue an order to prohibit an act that violates the Louisiana Securities Law.
5. **Indictment Language** - This is done by the prosecutor, not OFI.
6. **Grand Jury and Trial Testimony** - We may testify at either a grand jury hearing or a trial if subpoenaed.
7. **Assistance at Trial** - Our attorneys do not typically assist at trial. There would be a potential conflict if our attorney is involved in both our administrative function and the criminal prosecution.

Victim Ignorance

The Best Friend of Financial Criminals

Anytime money is moving, people are targeted for investment scams. Below is a profile of the average victim of an investment scam:

- Ages 49 and older
- Recently retired
- Getting divorced
- Recent death of a loved one
- Expecting an inheritance or cash settlement
- Active member of a church or social club
- Recent illness, financial setback or natural disaster
- Attends “Free Meal Investment Seminars”
- Above-average knowledge of investments, and is a confident investor

Frauds succeed because people hear and believe the promises of the promoter, and do not investigate either the promoters or the investments being sold to them.

Please visit OFI’s *Investor Education* section of their website for monthly updates on resources and tools at www.ofi.la.gov/SecuritiesInvestorEd.htm.

Other websites for more investor protection resources:

- www.nasaa.org North American Securities Administrators Association
- www.saveandinvest.org Investor protection and awareness for seniors and military
- www.sec.gov U.S. Securities and Exchange Commission
- www.finra.org Financial Industry Regulatory Authority
- <http://www.consumerfinance.gov/> Consumer Finance Protection Bureau

REGISTRATION OF SECURITIES

With few exceptions, every offer or sale of a security must, before it is offered or sold in a state, be **registered** or **exempt from registration** under the securities laws of the state in which the security is offered and sold. This includes out-of-state solicitations.

Some securities sales that are exempt are self-executing and require no securities filings with OFI. Other exemptions are available depending on the manner in which the securities are sold, and include such factors as whether:

- Sales are made only to a certain number of investors;
- Compensation is paid for the sale;
- The security is advertised; and
- The investors have a certain level of sophistication that includes their knowledge and experience in investing, their level of income and net worth. These investors are referred to as “accredited investors”, and “private offerings” geared for them don’t require the same level of protection in securities law as do public offerings for average investors.

Registrations and Exemptions are granted through the Securities and Exchange Commission (SEC) and the Louisiana Office of Financial Institutions (OFI). **The offer or sale of unregistered securities is a violation of Louisiana Revised Statute 51:707A (Unregistered Securities).**

Registration of the Seller

Anyone selling securities must be properly registered or exempt from registration with the Louisiana Office of Financial Institutions (OFI).

1. **Brokerage Firms:** Also known as broker-dealers. Investors maintain their securities accounts with these firms, which must be registered with OFI, the Securities and Exchange Commission (SEC), and the Financial Industry Regulatory Authority (FINRA).
2. **Securities Salespersons:** Commonly referred to as stockbrokers and work for the broker-dealer firms. They are the individuals with whom investors deal when effecting transactions in their accounts. They typically receive commissions when investors purchase or sell securities. They are registered/ licensed with OFI and FINRA.
3. **Investment Advisers:** In general, an investment adviser is a person who: (1) for compensation, (2) is engaged in the business of, (3) providing advice, making recommendations, issuing reports or furnishing analyses regarding securities, either directly or through publications. A person must satisfy all three of these elements in order to be an “investment adviser.” Either a natural person or a business entity can be an investment adviser. Depending upon their size, they are either registered with OFI or the SEC.
4. **Investment Adviser Representatives:** In general, an investment adviser representative is a natural person who gives advice on behalf of an investment adviser to a certain minimum number of natural person clients through regular meetings or communications. They are registered with OFI.

The offer or sale of a security by an unregistered seller is a violation of Louisiana Revised Statute 51:703(A) (Unregistered Dealers and Salesmen).

CENTRAL REGISTRATION DEPOSITORY (CRD)

The CRD is a computerized database for securities regulators (like OFI) that holds qualification, employment and disclosure histories of registered/ licensed securities individuals and firms. It also contains information on enforcement actions taken against unregistered/ unlicensed individuals and entities.

Contact the Louisiana Office of Financial Institutions (OFI) for a FREE *CRD Report* on any investment professional who is registered with OFI to sell securities in Louisiana, covering their:

- **Background**
- **Certifications**
- **Criminal History**
- **Pending Arbitrations**
- **Employment History, including *Terminations, Disciplinary Actions and Customer Complaints***

For fastest service

Email your written request to complaints@ofi.la.gov. Be sure to include the person's name, company, telephone number, city and state.

If email is not available, mail the request to OFI at 8660 United Plaza Boulevard, Baton Rouge, Louisiana 70808. A confidential *CRD Report* will be emailed to you within three business days from receipt.

CONCEPT OF FULL DISCLOSURE

Securities law includes the concept of “Full Disclosure”:

1. Investors are entitled to complete, accurate and detailed information about the offering; and
2. Securities salespersons and issuers have an affirmative obligation to provide complete disclosure.

Any misrepresentation of information or failure to make full disclosure is a violation of Louisiana Revised Statute 51:712 (Unlawful Practices).

SECURITIES PRODUCTS

Products that are commonly referred to as securities include the following:

1. Stocks and Stock Options
2. Bonds and Debentures
3. Promissory Notes;
4. Mutual Funds
5. Warrants
6. Convertible Certificates.

Products not commonly referred to as securities, but still subject to the laws governing securities, include the following:

1. Investment contracts
2. Fractional undivided interests in mineral/oil rights;
3. Certificates of interest in profit-sharing agreements (limited partnerships/limited liability companies);
4. Real Estate Investment Trusts (REITS)

STOCK CERTIFICATE

Shares of stock represent a fraction of ownership in a corporation. If the company does well, the value of your stock should go up over time. If the company does not do well, the value of your investment will decrease. Companies distribute a portion of their profits to shareholders as dividends.

A stock certificate of a corporation or a joint-stock company evidences that the named person on the certificate is the owner of a designated number of shares of stock. It is merely written evidence of ownership in a corporation, and of the rights and liabilities resulting from such ownership. The actual piece of paper is evidence of ownership or creditorship in a corporation. It is merely a paper representation of an incorporeal right.

Stocks are generally divided into two categories, preferred and common.

Preferred stock typically gives holders the right to receive a fixed dividend before any dividends can be paid to the company's common shareholders, although the dividend amounts are limited to set amounts. Preferred shareholders

receive preference over the holders of common stock, but after bondholders, if the company is dissolved. Holders do not have voting rights, however, the safety of the principal of preferred stock is greater than that of common stock.

Common stock is the basic form of ownership in a company and normally includes the rights to the shareholder to elect directors and to vote on certain major corporate decisions. Shareholders who hold common stock have a claim on the assets of a firm after those of preferred stockholders and bondholders.

STOCK OPTIONS

Stock **call options** give the holder the right to buy a specific number of shares of a particular stock, at a stated price, up to a specified time. A **put** option gives the holder the right to sell stock. Fundamentally, options do not offer growth potential on their own and returns are dependent on the movement of the underlying stock. Options are by nature short-term investments and are considerably more volatile than the underlying stocks because they are leveraged investments. Most options are recorded in an electronic format, not in paper hard copy.

BONDS AND DEBENTURES

When you own a bond you have loaned money to a company or a governmental unit that issues the bond. In return, the borrower (issuer) promises to repay the amount borrowed (face amount) plus interest. Bonds may be sold at prices higher or lower than their face value. The higher the yield on a bond, the riskier the bond.

Corporate bonds are issued by companies, while **municipal** bonds are issued by state or local governments. Municipal bonds are issued to finance various projects, such as schools or highways, but they are not actually guaranteed. Corporate bonds can be secured by a pledge of specific assets. **Debentures** are the most common corporate bond and they are backed by the credit of the issuer rather than by any specific asset.

Zero coupon bonds are corporate or government bonds which investors purchase at a "deep discount" (well below face value). The investor will know in advance what the bond will pay at its maturity, but will not receive interest in the meantime. As with all bonds, these are also subject to interest-rate risk.

"Junk bonds" is a slang term for speculative, high-risk, high-interest rate corporate or municipal bonds. The default rate is much higher on junk bonds than on higher quality bonds. Junk bonds may be issued by companies of little financial strength.

The risk in purchasing corporate bonds is that the corporation may not be able to pay interest or return your principal at maturity.

PROMISSORY NOTE

A promissory note is a written promise to pay or repay a specified sum of money at a stated time or on demand. Legitimate promissory notes are marketed almost exclusively to sophisticated or corporate investors that have the resources to research thoroughly the companies issuing the notes and to determine whether the issuers have the capacity to pay the promised interest and principal. Even these notes are not risk-free since the notes are only as sound as the companies or projects they're financing.

Promissory notes can provide a reasonable reward for those who are willing to accept the risk. Unfortunately, there have been many instances of sales of bogus promissory notes. They are sold as instruments that guarantee above-market, fixed interest rates, while safeguarding their principal. While fraudulent promissory notes appear to give investors the two things they desire most – higher returns and safety – they may not be worth the paper they are printed on.

For most promissory notes sold to the general public, there must be a claim of exemption filing or registration made in the states where the note is being sold and with the Securities and Exchange Commission. Most promissory notes sold to the general public also must be sold by securities salespeople who have the appropriate registration with OFI.

MUTUAL FUNDS

Also known as "investment companies," mutual funds pool the amounts that their investors pay in to purchase their shares, and in turn invest in the securities of other companies. A fund manager buys and sells securities for the fund's shareholders. Mutual funds are not risk-free. Their values rise and fall along with the securities in the fund. Each mutual fund has an objective that determines the types of securities it invests in. The fund objectives are stated in the prospectus which is the legal document describing the fund. Mutual fund shareholders are paid dividends based upon the fund's earnings after expenses. Mutual funds may charge various types of sales charges ("loads") and other ongoing expenses. The value of a mutual fund's shares will vary based upon the total value of the fund's investments divided by the number of shares outstanding (net asset value).

The main types of funds are stock, bond and money market funds. Most mutual funds are **open-end** funds. These funds may sell as many shares as they want. **Closed-end** funds offer only a fixed number of shares and are traded over an exchange or over the counter. Closed-end funds more closely mirror stocks in the way shares of the fund are traded.

WARRANT

A **warrant** is a certificate usually issued along with a bond or preferred stock entitling the holder to buy a specific amount of the security at a specific price.

CONVERTIBLE CERTIFICATE

A bond, debenture or preferred share which may be exchanged by the owner for common stock or another security, usually of the same company (issuer), in accordance with the terms of the offering.

INVESTMENT CONTRACT

A contract or transaction whereby a person invests his money in a common enterprise and is led to expect profits from the efforts of the promoter or a third party.

To fall within the scope of the definition of a security, an “investment contract” must involve four elements:

- (1) An investment of money;
- (2) In a common enterprise;
- (3) With an expectation of profits; and
- (4) Derived from the entrepreneurial or managerial efforts of others

Examples of recent schemes involving investment contracts include: pay telephone and related services leaseback contracts, ATM machine leaseback contracts, off-shore leasing promotions, Web kiosk leaseback contracts, and coin deals.

FRACTIONAL INTEREST OIL AND GAS WELLS

A fractional interest is a portion of a lease for land on which a well(s) is or will be located. The investors generally hope that the wells will be productive, and that they will share proportionally in the profitability of the well. Generally, the lease-holder on the land has an overriding interest in the well.

These investments are generally considered securities. Some oil and gas transactions may be exempt from state securities registration, but only if numerous conditions of securities law are met.

These investments may be marketed as safe and secure, high-yield investments and therefore attract investors who are interested in safety of principal with some income-producing potential [seniors/retirees]. Oil and gas ventures are typically highly speculative investments. They may not be suitable for the general investing public.

Problems associated with these investments include:

- “Cold” call telephone solicitation
- The wells may not produce;
- The wells may not even exist, although some scammers go as far as to show prospective investors the plot of land where the well is supposedly located.

A fraudulent oil and gas scheme frequently takes the form of a Ponzi scheme. After a few initial investors buy in, those funds are “recycled” to make it appear as though they are receiving dividend payments.

LIMITED PARTNERSHIP AGREEMENT

A limited partnership agreement is a contract which creates a partnership between the general partner and those who finance the business, the limited partners. The limited partners expect to receive a return (profits) based on the ratio of their investment to the total amount of all the investments in the business. Limited partners are passive investors -- their participation is limited to the profits or losses of the venture. Limited partners give control of the funds they invest to the general partner who makes all the decisions on behalf of the partnership. A limited partnership can consist of as few as two persons or parties: a general partner, who may or may not invest in the partnership, but who manages or controls it, and one or more limited partners who provide the capital to fund it.

MEMBERSHIP INTEREST IN LIMITED LIABILITY COMPANY

A limited liability company is structured similarly to a limited partnership. However, participants are called *members* rather than *partners*. The managing member, just as a general partner, controls all the affairs and finances of the company. All the other contributing members, just as limited partners in a limited partnership, simply provide the capitalization for the business with the expectation that they will receive a profit on their investment.

The advantage of a limited liability company over a limited partnership applies only to the managing member, who under this form of business structure cannot incur any personal liability

REAL ESTATE INVESTMENT TRUSTS (REITS)

A company that manages a portfolio of real estate to earn profits for shareholders. The real estate usually consists of commercial properties, such as hotels, shopping centers, medical facilities, office buildings, and apartment complexes. Shareholders receive income from the rents received on the properties and also receive capital gains as properties are sold at a profit.

COMMON SCAMS AND SCHEMES

The following are common scams and schemes:

1. The Offer and Sale of Securities by Unlicensed/ Unregistered *Individuals*
2. The Offer and Sale of Unregistered Investment *Products*
3. Ponzi Schemes
4. Pyramid Schemes
5. Affinity Fraud
6. Nigerian Letters
7. Prime Bank Instruments
8. Churning
9. Lack of Suitability
10. Theft in Brokerage Accounts
11. Internet Investment Fraud
12. Promissory Notes
13. Bogus Investments
14. Boiler Rooms
15. Equipment Leasing
16. Oil and Gas Schemes
17. Misrepresentations
18. Omissions of Material Fact

TRAITS OF A TYPICAL PERPETRATOR

The traits of a securities fraud perpetrator can be similar to those of other con artists. The traits can include the following:

1. Very friendly, appears to take a personal interest in victim
2. Professional persuader, takes control conversation, builds relationships
3. Plays on victim's confusion about the variety and complexity of financial products
4. Brings out one of our worst traits – greed
5. Attempts to make the victim feel inadequate if they question him or her

THE OFFER AND SALE OF SECURITIES BY UNREGISTERED INDIVIDUALS

Unlicensed/unregistered individuals, such as independent insurance agents, who sell securities is a common investment scam. In hundreds of cases from Hawaii to Florida, scam artists are using high commissions to entice independent insurance agents, who are not licensed/registered securities professionals, into selling investments they may know little about.

Unless they qualify for an *exemption* to registration, any salesperson who sells securities without registering with OFI is committing a felony and can be subject to criminal charges.

Prior to investing, investors are encouraged by OFI to request a free background check (a CRD Report) on any investment professional who is registered with OFI to sell securities. This includes solicitations from out-of-state.

A *CRD Report* covers the person's:

- **Background**
- **Certifications in securities**
- **Criminal history**
- **Pending arbitrations**
- **Employment history**
- **Customer complaints**

A written request for a *CRD Report* can be emailed to complaints@ofi.la.gov for fastest response. Be sure to include the person's name, organization, telephone number, city and state if the legal name or CRD Number is not available. If email is not available, written requests can be mailed to:

OFI, Securities Division
8660 United Plaza Boulevard
Baton Rouge, Louisiana 70809

THE OFFER AND SALE OF UNREGISTERED INVESTMENT PRODUCTS (SECURITIES)

With few exceptions, every offer or sale of a security must, before it is offered or sold in a state, be registered or exempt from registration under the securities laws of the state or province in which the security is offered and sold.

Unless the investment product qualifies for an *exemption* to registering with OFI, it is a felony for a salesperson to sell unregistered, non-exempted securities, and criminal charges may be filed against them.

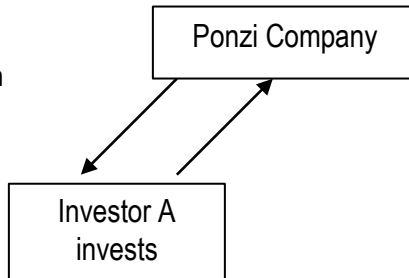
PONZI SCHEMES

Promoters offer high rates of return on the various impressive-sounding investments. However, instead of using the money as promised, new investors' money is used to pay the monthly "interest" or "return" to earlier investors. These "satisfied investors" then report the high returns to their friends, who in turn invest in hopes of achieving the same above-average returns. In a Ponzi scheme, investors are not, in fact, investing in an underlying business, even though they believe they are. Early investors are simply being paid with the funds received from later investors. The scheme only continues as long as new investors provide additional funds. When the scheme collapses (as it always does), current investors lose their money and the promoters walk away rich.

Ponzi Scheme

Chart 1

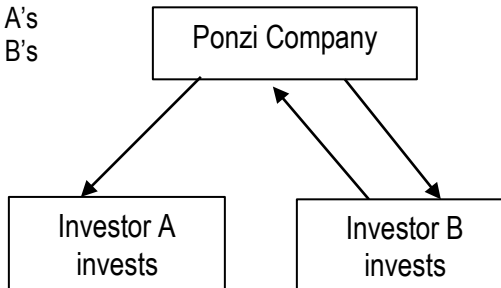
Ponzi Company uses a portion of Investor A's investment as the return on investment



Other investors start investing after Investor A gets a return on investment.

Chart 2

Ponzi Company pays Investor A's next return from Investor B's investment of money

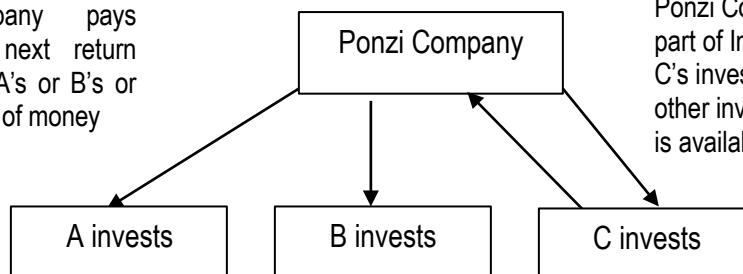


Ponzi Company returns part of Investor B's investment from either Investor A's or Investor B's investments of money

Additional investors invest based on the returns that prior investors receive which demonstrates that it's a safe and profitable investment.

Chart 3

Ponzi Company pays Investor A's next return from Investor A's or B's or C's investment of money



Ponzi Company returns part of Investor A's or B's or C's investment from any other investors money that is available

And the beat goes on and on until all the money is depleted and there are no new investors willing to invest

PYRAMIDS

Pyramid promotions focus on the quick profits to be earned from recruiting other investors, who then will recruit others, and so on. Little mention or emphasis is placed on the product or service to be sold. The fraud derives from the ever-decreasing number of potential investors in a given area. The common elements of a pyramid scheme involve the following:

1. An invitation from a friend, neighbor, or coworker to attend an “opportunity meeting” to learn how to earn lots of money;
2. At the meeting, a well-rehearsed presentation that downplays the traditional methods of acquiring money and will offer instead an exciting shortcut to wealth and adventure; and
3. Payment of large fees for products, courses, etc., and/or the right to recruit others and profit from their participation.

The emphasis is to get others to invest. True pyramid schemes are illegal in most states and provinces, but are difficult to prosecute. Victims’ money is often filtered up through the pyramid and lost. Sooner or later, all pyramid schemes collapse of their own weight (taking many investors down with them, of course).

Anyone who participates in an illegal pyramid can be charged under Louisiana Revised Statute 51:1405.

AFFINITY FRAUD

With affinity fraud, con artists find something in common with the potential victim, and use that common interest to gain their trust. Perhaps they go to the same church, belong to the same club or association and have similar hobbies. They know that it is often easier to trust someone who is like you. Once trust is gained, it is easier to exploit the trust of individuals to execute a scam.

Groups targeted for affinity fraud include:

- Churches
- Business clubs
- Country clubs
- College alumni clubs
- Civic groups
- Ethnic groups
- Hobby clubs

PRIME BANK INSTRUMENTS

There is no such thing as a prime bank.

Prime bank instruments have three common elements:

- a) A claim of accessing offshore institutions, “traders” or overseas markets to realize exceedingly high returns in short periods of time (90 days to 1 year);
- b) A story designed to evoke an aura of secrecy in the access to the institutions, traders or markets (a non-circumvent, non-disclosure agreement is often used); and
- c) A reportedly fail-safe way to protect the investor’s principal while realizing huge returns.

The above characteristics are also often combined with the purported use of an offshore trust or account so that the U.S. citizen can bring their earnings back into the U.S. through the use of debit/credit cards to avoid or delay paying taxes. Investors are often told that their funds need never leave their bank or a U.S. bank as the funds serve only to act as a guarantee to the funds that are actually being invested. The International Chamber of Commerce (ICC) is sometimes invoked and there is a bogus *ICC 500 Publication* explaining bank trading.

Common names and schemes associated with prime bank instruments include:

- a) bank debenture trading programs
- b) prime bank notes
- c) intermediate-term notes
- d) high yield investments
- e) the “leveraging” of assets. Here, a multiplier concept is described that in some respects is similar to the banking and reserve system.

CHURNING

A broker's earnings are based on sales commissions or markups. The more buying and selling a broker does for each customer, the higher his or her income. Unnecessary buying and selling is called churning.

If there is a suspicion that certain recommendations made to an investor about their securities brokerage account have caused an unusually high number of trades, or that the account is being *churned*, OFI should be contacted.

LACK OF SUITABILITY

Brokers must consider whether an investment is suitable for a purchaser based on:

- Assets
- Income
- Investment goals; risk tolerance
- Current financial circumstances
- Age

Brokers must know their client and only recommend investments and trading strategies that are suitable for that client. It is the duty of the broker to make recommendations that are appropriate and suitable given the client's circumstances.

OFI has strict prohibitions against brokers that sell securities to customers that lack suitability for the securities recommended and purchased, and the broker may also be held financially liable to the client.

THEFT IN BROKERAGE ACCOUNTS

Brokers unfortunately sometimes misappropriate investor funds. The following are ways in which brokers take advantage of investors:

1. Investor statement shows unauthorized activity;
2. Broker tells the investor to make checks out to another entity or firm;
3. Investment objectives are not followed;
4. No action is taken after talking to branch manager or compliance department; and
5. The investor is placed into products not associated with the broker-dealer firm.

INTERNET INVESTMENT FRAUD

Con artists take advantage of the anonymity of the Internet to promote stocks or other types of “investments.” They post tips on-line or in chat rooms to influence the rise or fall of stock. Scam artists use Internet tools such as unsolicited emails, also known as “spam”, to spread false information. Potential investors should be aware that the Internet is worldwide; you do not know who is sending this information or where they are.

PROMISSORY NOTE FRAUD

Short-term debt instruments are issued by little-known or sometimes non-existent companies that promise high returns – upwards of 15 percent monthly – with little or no risk. Independent life insurance agents, who are not licensed securities professionals, often sell these notes to investors.

Variations to promissory note scams include notes that are advertised as “safe investments” backed by a lien on a mortgage, which might not exist. These notes are offered by businesses that buy, rehab, sell and lease real estate.

NOTE:

The note is the contract between the investor and the promoter and should be carefully read by the investor because it determines the rights and responsibilities of both parties.

For example, if the note doesn't require the promoter to disclose how the investor's money is being spent, the investor may have NO rights to request it. If the investor expects the promoter to provide that information, the investor should insist the note/contract requires the promoter to do so.

If the investor wants that information disclosed, but the promoter is not willing to put that stipulation into the note/contract, the investor should reconsider investing.

BOGUS INVESTMENTS

While this type of fraud is usually perpetrated by unregistered scam artists, occasionally a good adviser or broker goes bad. Sometimes the adviser/broker will sell promissory notes or other securities issued by companies that don't exist.

The vast majority of registered/licensed financial professionals are honest, hardworking and interested in providing good service to their clients, but there are a few bad apples.

BOILER ROOMS

A boiler room is often just a short-term rented apartment or office with multiple phone lines and an impressive-sounding address. Boiler rooms earn their name from the “heat” and high pressure generated by the callers as they try to convince investors to part with their money.

In many cases, either the company or the product does not really exist or it doesn't operate as represented. Telephone pitches are read from prepared scripts, with quick answers to the most common objections. Your phone number may have been obtained from phone directories, purchased lists, or newspaper articles.

Boiler-room operators have even been known to call recent widows and widowers or people who have recently lost large sums of money, offering to “help” recover the losses quickly and effortlessly. This is known as a “Reload Scam”, and the purpose is to obtain all of the victim's money.

INVESTMENT CONTRACT SCAMS: **EQUIPMENT LEASING**

While the majority of equipment leasing deals are legitimate, individuals selling interests in payphones, ATMs, offshore leasing promotions or Internet kiosks have scammed thousands of investors. In a typical equipment leasing scam, a company sells a piece of equipment through a middleman. As part of the sale, the company agrees to lease back and service the equipment for a fee. Equipment leasing investors are promised high returns with little or no risk. But high commissions paid to salesmen, and promised returns that are unrealistically high, doom many projects.

The next three pages explain some of these scams in further detail.

INVESTMENT CONTRACT SCAM:
ATM MACHINE LEASEBACK CONTRACT

This type of investment is similar to investments in pay telephones (Customer Owned Coin Operated Telephones, or COCOTs). An investor will purchase an ATM machine and, in most if not all cases, the investor also enters into a service agreement with the seller or a third party to install and maintain the ATM for a fee.

Under the typical service agreement, the seller or third party is responsible for selecting the site for installing the equipment, making all necessary arrangements with the property owner, installing the equipment, connecting to banking networks, obtaining equipment insurance, programming the equipment, collecting fees and paying all parties, maintaining the equipment, advertising the location and availability of the equipment, and more. Most investors would not be able to perform these necessary duties on their own and would not make the investment if a service agreement were not readily available. Further, the profitability of the investment is wholly dependent on the successful performance of these duties.

INVESTMENT CONTRACT SCAM:
OFFSHORE LEASING PROMOTIONS

With offshore leasing promotions, much like pay telephones, investors are offered the chance to purchase a 15-30 year lease on a resort vacation property. Ostensibly, they can choose to do either of the following: a) use their lease/time share; b) hire a manager to rent their lease; or c) make a significant rate of return if they use the lease company associated with the promoter's company.

Based solely on their face (usually the written materials), these offerings *attempt* to fall outside the parameters of securities regulation. However, they are most often marketed and recommended by the sales agent as a means to make a very safe 9-11% return. There are often "surrender" provisions that create a vehicle for return of invested capital and income guarantees by the "unaffiliated" leasing/management company.

INVESTMENT CONTRACT SCAM: PAY TELEPHONE LEASEBACKS

This type of investment in pay telephones is also known as Customer Owned Coin Operated Telephones, or "COCOTs". An investor purchases a pay telephone and, in most if not all cases, the investor also enters into a service agreement with the seller or a third party.

Investors purportedly are given options on their pay telephone investments which include items similar as the following: (1) self-management of the pay telephones, including installation, maintenance and collection of the pay telephones; (2) management by a pay telephone company of maintenance and collections for a monthly fee; or (3) leasing the pay telephones with a lease agreement that included all services of location, installation and management of the pay telephones.

Most investors would not be able to perform these necessary duties on their own and would not make the investment if a service agreement were not readily available. Further, the profitability of the investment is wholly dependent on the successful performance of these duties.

Terms of the pay telephone investments include lease terms of for example, five (5) to ten (10) years, wherein a payment such as \$75.00 to \$85.00 per month, per phone, is paid to the investor. At the end of the lease period, the pay telephones purportedly can be sold by the owner at the original purchase price.

The investment in pay telephones itself has to be analyzed if it is a good investment due to society's use of cell phones. In addition, the investor has to locate a purchaser at the end of the lease period in order to recoup their original investment. The pay telephone investments are securities and need to be registered as such with securities regulators, and the salespeople of these investments receive commissions and need to be registered to sell securities.

OIL AND GAS SCHEMES

By acquiring interests in a “proven” oil field or in the immediate vicinity of other proven oil fields, investors are promised “can’t-miss opportunities” for great wealth. These investments are frequently sold to people who live far from the oil company’s headquarters, which may be nothing more than a rented trailer.

As with gold and silver mines, promoters frequently offer new and secret methods for reclaiming missed oil reserves on previously drilled oil fields. Typically, in these types of scams, promoters invent false or misleading information about oil and gas properties to lure investors and keep them on the hook in bogus investments.

COMMON MISREPRESENTATIONS

The following are common misrepresentations:

1. Use of proceeds;
2. History of the promoters;
3. Safety of the investment;
4. Mechanics of the investment;
5. Financial condition of the firm or promoter;
6. Profitability of the company operations;
7. Ludicrous projections;
8. Compliance with applicable laws;
9. "This is not a security"; and
10. Insider information

COMMON OMISSIONS

The following are common omissions of material fact:

1. True risk of investment;
2. Details regarding how investment works;
3. History of criminal promoters:
 - a. Criminal history
 - b. Work history
 - c. Judgments or liens
 - d. Who the promoters really are
4. Insider transactions:
 - a. Self-dealing
 - b. Payments to family;
5. Compensation:
 - a. Who
 - b. How much; and
6. Failure to provide any financial information.

State Statutes – Louisiana Securities Laws

51:703	Unregistered Dealers/Salespeople
51:705	Unregistered Security
51:712	Unlawful Practices
51:1405	Unfair Acts or Practices
51:361	Pyramids
14:26	Criminal Conspiracy
14:67	Felony Theft
14:67.21	Theft of Assets of an Aged or Disabled Person
14:71	Issuing Worthless Checks
14:71.1	Bank Fraud
14:72	Forgery
14:72.2	Monetary Instrument Abuse
14:73	Computer Fraud
14:93	Exploitation of the Infirm
14:130	Obstruction of Justice
14:202	Contractors Misapplication of Payments
14:230	Money Laundering
15:1353	Racketeering