

Cheryl Ewen

From: kjmbjm@aol.com
Sent: Monday, April 03, 2017 4:54 PM
To: Emily.G.Kisicki@vermont.gov; Kevin Mullin; Cheryl Ewen
Cc: Michael.Pieciak@vermont.gov; William.Carrigan@vermont.gov; Scot.Kline@vermont.gov
Subject: Re: DFR Comment re: H. 462

Cheryl:

Please schedule DFR to come in and talk to us about this whenever you have Rep. Hill coming in to discuss it with us.

Many thanks,

Kevin

-----Original Message-----

From: Kisicki, Emily G. <Emily.G.Kisicki@vermont.gov>

To: kjmbjm <kjmbjm@aol.com>; kmullin <kmullin@leg.state.vt.us>

Cc: Pieciak, Michael <Michael.Pieciak@vermont.gov>; Carrigan, William <William.Carrigan@vermont.gov>; Kline, Scot <Scot.Kline@vermont.gov>

Sent: Mon, Apr 3, 2017 4:33 pm

Subject: DFR Comment re: H. 462

Dear Senator Mullin,

The Department of Financial Regulation ("DFR") has a comment and suggested revision to H. 462 to share with you. H. 462 prohibits an employer from requesting or requiring an employee or job applicant to disclose personal social media account information except in relation to an investigation of employee misconduct or violation of law. This prohibition could have the consequence of preventing broker-dealers and investment advisers from performing ongoing supervision and record keeping requirements. Broker-dealers and investment advisers need access to social media used by employees for *business* purposes in order to comply with state laws and regulations regarding supervision and record keeping.

Employee privacy bills similar to H. 462 have been introduced in other states. The Financial Industry Regulatory Authority (FINRA), the National Association of State Securities Administrators (NASAA), and the Securities Industry and Financial Markets Association (SIFMA) have sought amendments to such bills. Attached as background is a copy of NASAA's 2013 letter to the National Conference of State Legislators (NCSL) requesting an exclusion that allows broker-dealers and investment advisers to access employees' social media accounts when those accounts are used to conduct business and are, therefore, subject to federal and state securities laws and regulations and FINRA regulations.

DFR requests that the Committee consider including the following in H. 462: "Nothing in this act shall be construed to prevent an employer from complying with the requirements of state or federal statutes, rules or regulations, case law or rules of self-regulatory organizations." This exclusion would allow broker-dealers and investment advisers to access employees' social media accounts used for business purposes.

Please let me know if you have any questions or if you would like DFR to come speak to the Committee regarding this comment.

Thank you,

Emily Kisicki
Director of Examinations & Enforcement
Vermont Department of Financial Regulation