

National Guidelines for Financial Institutions: Working together to Protect Older Persons from Financial Abuse

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History of Elder Abuse Legislation - Federal

Federal Response:

- 1978 – First Hearings
- 1981 – Reports from Congress
- 1985 – More Hearings
- 1990 – Reports from Congress
- 2002 – Elder Justice Act introduced
- 2010 – Elder Justice Act passed
- 2018 – Senior Safe Act



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History of Elder Abuse Legislation - Federal

Federal Response:

- Three GAO (Government Accountability Office) studies
- 2012 – First APS Resource Center
- 2013 – NAMRS (National Adult Maltreatment Reporting System)
- 2014 – Office of Elder Justice and APS



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History of Elder Abuse Regulation – Financial Industry

- 2007 – FINRA (*Financial Industry Regulatory Authority*) Notice 07-43
- 2011 – FinCEN (*Financial Crimes Enforcement Network*) SAR (*Suspicious Activity Report*) added checkbox for elder financial exploitation
- 2013 – CFPB (*Consumer Financial Protection Bureau*) and 7 other federal regulators interagency guidance
- 2016 – NASAA (*North American Securities Administrators Association*) Model Act to Protect Vulnerable Adults from Financial Exploitation
- 2017 - CFPB, FinCEN and Treasury Joint Memorandum
- 2017 – FINRA Senior Exploitation Rule 2165 / Rule 4512 (TCP)

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Examples of Industry Collaboration

- 2003 – 2007 – PCA/Wachovia

- 3000 cases investigated
- \$62.5MM in assets protected
- No lawsuits

- 2018 – Wells Fargo Stuc

- Surveyed older adults/c



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NAPSA/PCA Steering Committee

National Guidelines for Financial Institutions*

Purpose:

- To protect the assets and well-being of vulnerable adult victims of financial abuse by:
 - Providing a nationally available, standardized form for APS to request client financial records when investigating financial exploitation.
 - Encouraging financial institutions to promptly provide client records to APS in conformance with state and federal privacy laws.

*Funding provided by The Huguette Clark Family Fund for Protection of Elders

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NAPSA/PCA Steering Committee

National Guidelines for Financial Institutions

History:

- In 2016, a form for use with banks/credit unions was developed and distributed.
 - Steering Committee:
 - Robert Anderson, Florida Department of Children & Families
 - Dana Goldberg, SeniorLAW Center
 - Judith Kozlowski, Administration for Community Living
 - Alan Lawitz, New York State Office of Children and Family Services
 - Ron Long, Wells Fargo Advisors
 - Chuck Silverman, Beneficial Bank
 - Jennifer Spoeri, Philadelphia Corporation for the Aging
 - Nancy Warren, North Carolina Dept. of Health & Human Services

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NAPSA/PCA Steering Committee

National Guidelines for Financial Institutions

History (cont'd):

- In 2019, the form was both streamlined and expanded to include securities firms as well as Banks/CUs.
 - Steering Committee:
 - Joe Snyder (Chair)
 - Kathleen Quinn (Assistant), President, National Adult Protective Services Association
 - Nancy Heffner, Lincoln Investment Planning, LLC
 - Carrie Chelko, Maureen Mattson, Kathleen Mongan, Lincoln Financial Group
 - Aisling Murphy, Brad Keely, The Vanguard Group, Inc.
 - Ronald C. Long, Wells Fargo Advisors
 - Jennifer Spoeri, Philadelphia Corporation for Aging
- Once published, will encourage adoption by all financial institutions.
- Establish local relationships.

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THIS IS A SAMPLE FORM
(2 pages to be printed front and back)

APS AGENCY LETTERHEAD
OFFICIAL REQUEST FOR CUSTOMER RECORDS

Pursuant to Gramm-Leach-Bliley Act (GLBA)(15U.S.C.§6802(e)(8); and 15U.S.C. §6802(e)(3)(B)) and State Law _____.

I, _____, an Adult Protective Services (APS) Investigator operating under the laws of the _____, am conducting an authorized investigation of alleged financial exploitation of an older person (vulnerable/dependent adult).

I hereby request records, to be sent securely, for all accounts relating to [Full Name _____], [Social Security #], [Date of Birth], account owner, account number or other unique identifier, for the period of _____ to _____:

- ☐ Statements for ALL accounts, including but not limited to, checking, savings, money market, certificates of deposit, investments, insurance, holdings
- ☐ Copies of all deposits and withdrawals from the account(s), including, but not limited to, checks [front and back] and any offsets, ACHs, wires, transfers, securities/certificates

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- ☐ Account Opening and closing documentation, including but not limited to, New Account Forms for all accounts, including view/read only accounts, insurance applications, Trusted Contact(s),¹ all Power of Attorney documents and signature cards
- ☐ Statements for any loans, lines of credit, credit cards, pledged assets and copies of any cash advances
- ☐ Other (if not included in the above): _____

To facilitate a timely investigation, please provide these records on or before _____.

I pledge to securely safeguard all client information provided in order to protect the customer's privacy.

Signature _____

Phone _____

Printed Name _____

Email _____

Title _____

Address _____

Agency _____

Address _____

¹Pursuant to the Financial Industry Regulatory Authority (FINRA) Rule 4512

May 2019

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Common reasons why Financial Institutions may not wish to cooperate

Privacy Concerns

- Objection: Gramm-Leach-Bliley Act of 2000 (“GLBA”) mandated consumer privacy regulations to take effect July 1, 2001.
- Response: In 2013, eight federal regulatory agencies issued guidance that reporting suspected elder financial abuse did not violate privacy provisions of GLBA.
 - *A financial institution may disclose nonpublic personal information to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability.*

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Common reasons why Financial Institutions may not wish to cooperate

Potential Liability*

- Objection: We’ll be sued
- Response:
 - Senior Safe Act provides safe harbor if the financial institution has provided training to staff on how to handle suspected financial exploitation.
 - FINRA Rule 2165 provides safe harbor from certain other FINRA rules.
 - Many State regulations provide immunity provisions.

*Should not be considered legal advice.

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Common reasons why APS may not wish to cooperate

Potential Liability

- Objection: We cannot share – confidential investigation
- Response:
 - Certain state laws may prohibit sharing of some information; however, cooperation exists and there may be ways to still accomplish the goal. Form partnerships, task forces, coalitions, joint initiatives, etc. to break down barriers and to help fight elder abuse.

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Collaboration with Others

The more we work together, the better we can help combat this growing problem!

- ✓ Social workers
- ✓ Healthcare workers
- ✓ Care administrators
- ✓ Law enforcement
- ✓ Friends/family



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Questions/Comments

