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 $afe Act
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

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)
Examples of Industry Collaboration

- 2003 – 2007 – PCA/Wachovia
  - 3000 cases investigated
  - $62.5MM in assets protected
  - No lawsuits

- 2018 – Wells Fargo Study
  - Surveyed older adults/

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
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

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 the Aging

• Once published, will encourage adoption by all financial institutions.
• Establish local relationships.
OFFICIAL REQUEST FOR CUSTOMER RECORDS


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
- 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 ____________________________

Printed Name ____________________________

Title ____________________________

Agency ____________________________

Phone ____________________________

Email ____________________________

Address ____________________________

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1Pursuant to the Financial Industry Regulatory Authority (FINRA) Rule 4512 May 2019
Common reasons why Financial Institutions may not wish to cooperate

Privacy Concerns


• 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.

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.
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.

**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
Questions/Comments