# DETECTING AND PREVENTING INVESTMENT SCAMS FOR SENIORS

Elder Financial Abuse: Prevention, Detection, and Response

Cooperative Credit Union Association, Inc. Marlborough, MA May 5, 2016

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Massachusetts Securities Division



# THE MASSACHUSETTS SECURITIES DIVISION

#### Mission:

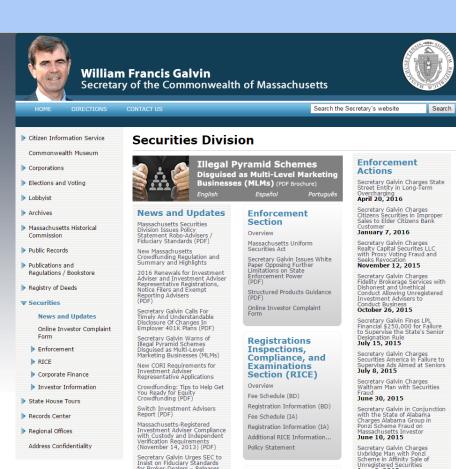
The primary mission of the Massachusetts Securities Division is **investor protection**. Consistent with that mission, the division works to ensure a free and competitive securities market in Massachusetts, thereby increasing investor confidence, encouraging the formation of capital, and supporting the creation of new jobs in Massachusetts.

# THE MASSACHUSETTS SECURITIES DIVISION

#### What Can the Securities Division Do For You?

- Review securities offering documents.
- Consult with small businesses about securities laws.
- Check status of persons offering or selling securities, including disciplinary history.
- Check status of persons giving investment advice, including disciplinary history.
- Investigate tips and complaints about alleged violations of law.
- Answer investor inquiries by telephone and/or in person.
- Render interpretative opinions.
- Make available copies of public records on securities offerings and registration status of investment professionals.
- Provide free investor education materials.

# WWW.SEC.STATE.MA.US



for Broker-Dealers - Releases Survey Results of MA IAs'

June 2, 2015

**Corporate Finance** 

## PRESENTATION OVERVIEW

- Federal Bills
  - Senior\$afe Act of 2015
  - Senior\$afe Act of 2016

NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation

NASAA Senior\$afe Program

# FEDERAL BILLS: SENIOR\$AFE ACT OF 2015 SENIOR\$AFE ACT OF 2016

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# SENIOR\$AFE ACT: FEDERAL BILLS

- Senior\$afe Act of 2015 (S.2216)
  Introduced in the Senate on October 28, 2015
- Senior\$afe Act of 2016 (H.R.4538)
  Introduced in the House on February 11, 2016

# SENIOR\$AFE ACT

Provides immunity from civil and administrative suits for individuals and covered financial institutions for disclosure of possible exploitation of a senior citizen.

# SENIOR\$AFE ACT: INDIVIDUALS

Individuals are supervisors, compliance officers, or legal advisors for covered financial institutions.

- The disclosure must be made
  - in good faith; and
  - with reasonable care.
- The individual received training.

# SENIOR\$AFE ACT: FINANCIAL INSTITUTIONS

• Covered financial institutions include credit unions.

The individual must have been an employee of the covered financial institution at the time of disclosure.

The covered financial institution provided training to the individual.

# SENIOR\$AFE ACT: TRAINING

- Training regards the identification and reporting of suspected exploitation.
- Training must be provided to individuals who come into contact with senior citizens as part of their regular duties or may review or approve financial documents, records, or transactions of senior citizens.
- Training must be provided as soon as reasonably practicable but no more than 12 months after the employee begins employment.

# MODEL ACT TO PROTECT VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

Peter Cassidy, Esq. Associate Director, Corporate Finance Massachusetts Securities Division

# NASAA MODEL ACT TO PROTECT VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

- NASAA: A membership organization composed of the state securities agencies, Canadian provinces, and Mexico
- Initiatives promote investor protection and regulatory uniformity
- Reflect increased attention that is being paid to issues of:
  - Diminished capacity
  - Financial exploitation of adults, especially seniors

# TARGETING FINANCIAL EXPLOITATION

#### Financial Exploitation Definition:

- Wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an eligible adult.
- Obtaining Control of such assets by deception, intimidation, or undue influence
- Converting money, assets, or property to deprive an eligible adult of the ownership use, benefit, or possession of such assets.
- NOTE: The definition is sweeping; it encompasses theft, misuse of assets, as well as undue influence situations

# **NASAA MODEL ACT: OVERVIEW**

- New tools to help detect and prevent financial exploitation of vulnerable adults
- "Eligible adults": 65+, and those subject to state adult protective services law
- Mandatory reporting to government agencies by broker-dealer and investment advisory firms and their staffs
- Notification of designated third party (if the customer has designated such a person)
- Reports to be made by "qualified individuals":
   BD agents, IA representatives, those who serve in supervisory, compliance or legal capacity (includes independent contractors in those roles)

# NASAA MODEL ACT: OVERVIEW (CONT.)

- Delayed disbursements: Up to 15 days; this may be extended up to 10 additional days by state securities agency or adult protective services.
- Trigger: Reasonable belief that financial exploitation of an eligible adult is being attempted or is happening.
- Immunity from administrative or civil liability actions taken and reports made in good faith and in the exercise of reasonable care
- Records may be shared with adult protective services and law enforcement

## **OBSERVATIONS**

- Continued interest in these issues —likely to increase
- Demographic shifts will show need for policies
- Statutes and rules help create standardized procedures
- But will resources be available to address financial exploitation situations
- The existence of procedures may help deter financial exploitation

# SENIOR\$AFE PROGRAM

Diane Young-Spitzer, Esq. Deputy Director & General Counsel Massachusetts Securities Division

# SENIOR\$AFE BROCHURE FOR BANKS: PART 1

### It's more common than we think.

**Senior financial exploitation and fraud** is the illegal or improper use of a senior's resources for another's profit or advantage. **Exploitation** usually involves someone the senior knows, such as a family member or caregiver. **Fraud** is usually perpetrated by a stranger, such as a telemarketer or investment promoter.

The key to protecting yourself is information and protective action. Use this guide to help spot red flags of potential exploitation and fraud early on so that you can protect yourself. If you've been victimized, remember it is never too late to seek help!

Experts in elder fraud prevention believe that simple preventive steps can significantly increase your financial safety and decrease the chances you will become a target for financial exploitation or fraud.

#### **Quick Tips**

- Use caution utilizing joint accounts as a method of planning for incapacity, avoiding probate or getting help with bill paying
- 2. Don't talk to strangers
- Speak to a trusted professional advisor
- 4. Protect your financial information

More details inside!

#### Senior\$afe Resources

Office of Aging and Disability Services Adult Protective Services 1-800-624-8404

Provides services to protect incapacitated and/or dependent adults.

Legal Services for the Elderly 1-800-750-5353

Provides free, high-quality legal services to Maine's socially and economically needy elderly age 60 and over

Local Area Agency on Aging 1-877-353-3771

Provides answers on aging and access to resources that help older and disabled adults live well in their homes and communities

If you have other questions or concerns, contact a representative at your financial institution.

Senior\$afe is a project of Maine financial institutions in partnership with the Maine Department of Professional and Financial Regulation, Office of Aging and Disability Services— Adult Protective Services



# SENIOR\$AFE BROCHURE FOR BANKS: PART 2

#### Where do you fall on the "vulnerability scale?"

Are the conditions of your current situation ripe for potential exploitation or fraud? You may be at an increased risk if any of the situations below apply to you.

#### **Vulnerability Factors**

- Recent loss of a spouse or partner and/or social isolation
- Dependent on someone to provide everyday care, transportation or other services
- Financially responsible for an adult child, grandchild or other family member
- Recent change in health or depression
- Frequent mistakes in managing finances or feeling overwhelmed in managing household budget or investments
- Excessive anxiety about finances, running out of money regularly at the end of the month
- Willingness to listen to telemarketing or other calls from unknown parties, attend commercial "free lunch" seminars, or investigate workat-home or other business opportunities

#### Take action to protect yourself.

- As a precaution, put all your phone numbers on the DO NOT CALL List. Call 1-888-382-1222 or visit www.donotcall.gov. But don't expect all calls to stop, especially from determined scammers.
- DO NOT accept calls from any person you do not know. Use caller ID, and don't answer the phone if you don't recognize the telephone number.
   Studies show that consumers who answer unsolicited telephone calls are much more likely to be scammed than those who do not answer.
- 3. If necessary, get an unlisted telephone number.
- NEVER give out personal information to strangers in response to texts, emails, or calls regardless of who they claim to be or where they claim to be calling from.
- NEVER wire money to strangers under any circumstances regardless of who they claim to be or how urgent the situation.
- Review your financial account statements at least monthly and contact your financial institution, credit card issuer or other provider immediately if you see unauthorized charges or other issues.



- Consider enlisting a trusted family member or reputable bill-paying service. Consult your local Area Agency on Aging for help with routine payments.
- Monitor your credit report at least annually by visiting www.annualcreditreport.com or by calling 1-877-322-8228.
- Use a document shredder for all discarded paperwork and credit card offers.
- 10. Remember, there's no such thing as a sure thing. It is illegal to participate in foreign lotteries. You can't win a contest you didn't enter. That windfall you've been promised is a scam. Don't be a victim!
- 11. Use caution when utilizing joint accounts as a method of planning for incapacity or getting help with paying your bills. Both parties are equal owners and have equal access. Talk to your financial institution, attorney or your local Area Agency on Aging to learn about all of your options for assistance with your finances.
- 12. Execute a power of attorney only if you can appoint an agent you trust completely and only after consultation with an attorney. Be aware of gifting clauses in power of attorney documents. You can and should limit the power you give your agent. Only grant authority that is absolutely necessary.
- NEVER convey or quitclaim an interest in real estate without consulting an attorney.

Senior\$afe

# Senior\$afe

# Guidelines for assisting customers at risk of elder financial exploitation or fraud

You should be concerned if any of the following red flags of possible active exploitation or fraud are present.

- Caregiver or person accompanying senior (C/PA) shows excessive interest in senior's finances or accounts, does not allow senior to speak for him or herself, or is reluctant to leave the senior's side during conversations, or restricts visits or phone calls.
- Senior shows an unusual degree of fear, anxiety, submissiveness or deference toward C/PA
- Senior moves away from existing relations and toward new associations with other "friends" or strangers
- Sudden appearance of previously uninvolved relatives claiming their rights to senior's affairs and possessions
- Abrupt changes to financial documents, such as power of attorney, account beneficiaries, wills and trusts, property title and deeds
- Uncharacteristic non-payment for services or sudden NSF activity, which may indicate a loss of funds or access to funds
- Noticeable neglect or decline in appearance, grooming, or hygiene
- Change of address on accounts to new recipient's address, especially when distant from senior's home

- Frequent large withdrawals, including daily maximum currency withdrawals from an ATM
- Inconsistent debit transactions or uncharacteristic attempts to wire large sums of money
- Closing of CDs or accounts without regard to penalties
- Senior displays unexplained or unusual excitement over a financial windfall or prize check; may be reluctant to discuss details
- Senior lacks knowledge about his or her financial status or shows a reluctance to discuss financial matters
- Unexplained disappearances of funds or valuable possessions
- Suspicious signatures
- Financial institution is unable to speak directly to the senior despite repeated attempts to do so
- A new caretaker, relative or friend suddenly begins conducting financial transactions on behalf of a senior without proper documentation or through a sudden change of C/PA or Power of Attorney
- Large withdrawals from a previously inactive account or a new joint account

One or more of these red flags may indicate possible illegal activity. Follow up immediately as indicated on the back of this card.

### SENIOR\$AFE RED FLAGS FOR BANKS: PART 1

# SENIOR\$AFE RED FLAGS FOR BANKS: PART 2

### Senior\$afe Quick Response Chart for Front Line Staff

If you are suspicious

- Inquire about the withdrawal if inconsistent with consumers normal behavior
- Suggest alternative to large cash withdrawals
- Make consumer aware of ways to limit risk of joint account
- Check documentation of the third party (ex. power of attorney)
- Review items of deposit if they are unusual or unique items not regularly deposited. Discreetly question consumer on how they obtained the item
- Contact the appropriate personnel at your financial institution

If you suspect coercion in the presense of a third party

- Separate the senior from third party by ushering him or her to another location on the pretense of discussing private account information
- Contact the appropriate personnel at your financial institution

If you are still suspicious or if you fear senior is in immediate danger

 Always contact the appropriate personnel at your financial institution who will decide next steps



# SENIOR\$AFE CARD FOR BANKS

# Voluntary External Reporting and Referral Options Depend Upon the Situation

Each situation is unique, but it is crucial that the responsible manager/supervisor consider all of the options and if at all possible make at least one referral.

Any adult in immediate danger: 911

#### Without Senior's Consent

#### Dependent or incapacitated seniors

- Adult Protective Services available 24/7, immunity for institution (1-800-624-8404)
- Law enforcement

# Not dependent or incapacitated seniors (i.e., Pursuant to GLBA and Maine GLBA exception)

- Maine Office of Securities at 1-877-624-8551
- Law enforcement

#### With Senior's Consent

#### When financial exploitation is suspected:

- Maine Office of Securities at 1-877-624-8551
- Legal Services for the Elderly at 1-800-750-5353
- Law Enforcement

#### Maine Credit Union League

## When support services may be helpful to the consumer:

- Local Area Agency on Aging at 1-877-FLDFRS-1
- Domestic Violence Hotline at 1-866-83-4HELP
- Sexual Assault Hotline at 1-800-871-7741

# SENIORSAFE BROCHURE FOR BROKER-DEALERS **AND INVESTMENT ADVISORS: PART 1**

#### It's more common than we think.

#### Senior financial exploitation and fraud is the illegal or improper use of a senior's resources for another's profit or advantage.

- ⇒ Exploitation usually involves someone the senior knows, such as a family member or caregiver.
- ⇒ Fraud is usually perpetrated by a stranger, such as a telemarketer or investment promoter.

#### The key to protecting yourself is information and protective action. Use this guide to help spot red flags of potential exploitation and fraud early on so that you can protect yourself. If you've been victimized, remember it is never too late to seek help!

Experts in elder fraud prevention believe that simple preventive steps can significantly increase your financial safety and decrease the chances you will become a target for financial exploitation or fraud.

#### **Quick Tips**

- 1. Use caution utilizing joint accounts as a method of planning for incapacity, avoiding probate, or getting help with bill paying.
- 2. Don't talk to strangers.
- 3. Speak to a trusted professional adviser.
- 4. Protect your financial information.

More details inside!

#### SeniorSafe Resources

#### Adult Protective Services [Insert phone number]

Provides services to protect incapacitated and/or dependent adults.

#### Legal Services for the Elderly [Insert phone number]

Provides legal services to socially and economically needy elderly population. [Modify description as appropriate.]

#### Local Area Agency on Aging [Insert phone number]

Provides answers on aging and access to resources that help older and disabled adults live well in their homes and communities.

#### Serve Our Seniors Website

www.serveourseniors.org

If you have other questions or concerns, contact a representative at your state securities regulator.

#### [Insert phone number]



Protect your money and financial accounts from scams, exploitation, and identity theft.

Know who to contact if you need help.



[Insert state securities logo]





# SENIOR\$AFE BROCHURE FOR BROKER-DEALERS AND INVESTMENT ADVISORS: PART 2

#### Where do you fall on the "vulnerability scale?"

Are the conditions of your current situation ripe for potential exploitation or fraud? You may be at an increased risk if any of the situations below apply to you.

#### **Vulnerability Factors**

- ⇒ Recent loss of a spouse or partner and/or social isolation
- ⇒ Dependent on someone to provide everyday care, transportation, or other services
- ⇒ Financially responsible for an adult child, grandchild, or other family member
- ⇒ Recent change in health
- ⇒ Socially isolated, depressed or lonely
- ⇒ Frequent mistakes in managing finances or feeling overwhelmed in managing household budget or investments
- ⇒ Excessive anxiety about finances.
- ⇒ Running out of money regularly at the end of the month
- ⇒ Willingness to listen to telemarketing or other calls from unknown parties, attend commercial "free lunch" seminars, or investigate work- athome opportunities or sweepstakes.
- ⇒ Pressure from children, caregivers, or others to share money or change will

# Senior\$afe

#### **PREVENTION STEPS:** Take action to protect yourself.

- 1. Limit phone calls from strangers.
  - Do not accept calls from any person you do not know. Use caller ID, and don't answer if you don't recognize the number. Studies show that consumers who answer unsolicited calls are much more likely to be scammed than those who don't.
  - As a precaution, put all your phone numbers on the Do Not Call Registry. Call 888-382-1222 or visit www.donotcall.gov. But don't expect all calls to stop, especially from determined scammers.
  - If necessary, get an unlisted telephone number.
- Never give out personal information to strangers in response to texts, emails, or calls, regardless of who they claim to be or where they claim to be calling from.
- Never wire money to strangers under any circumstances, regardless of who they claim to be or how urgent the situation.
- Review your financial account statements at least monthly and contact your financial institution, credit card issuer, or other provider immediately if you see unauthorized charges or other issues.
- Monitor your credit report at least annually. Visit www.annualcreditreport.com or call 877-322-8228. You can get one report from

- each of the three bureaus free each year.
- Consider enlisting a trusted family member or reputable bill-paying service. Consult your local Area Agency on Aging for help with routine payments.
- 7. Use caution when utilizing joint accounts as a method of planning for incapacity or getting help with paying your bills. Both parties are equal owners and have equal access. Talk to your financial institution, attorney, or your local Area Agency on Aging to learn about all of your options for assistance with your finances.
- Execute a power of attorney only if you can appoint an agent you trust completely and only after consultation with an attorney. Be aware of gifting clauses in power of attorney documents. You can and should limit the power you give your agent. Only grant authority that is absolutely necessary.
- Never convey or quitclaim an interest in real estate without consulting an attorney.
- Use a document shredder for all discarded paperwork and credit card offers.
- 11. Remember, there's no such thing as a sure thing. It is illegal to participate in foreign lotteries. You can't win a contest you didn't enter. That windfall you've been promised is a scam. Don't be a victim!





## Guidelines for assisting customers at risk of elder financial exploitation or fraud

You should be concerned if any of the following red flags of possible active exploitation or fraud are present

#### Suspicious Behavior

- Person accompanying elder shows excessive interest in elder's finances or accounts, does not allow elder to speak, is reluctant to leave the elder's side during conversations, or restricts visits or phone calls
- Elder shows an unusual degree of fear, anxiety, submissiveness or deference toward person accompanying him or her
- Elder lacks knowledge about his or her financial status or shows a reluctance to discuss financial matters
- Use Elder moves away from existing relationships and toward new associations with other "friends" or strangers
- You are unable to speak directly with the elder despite repeated attempts to contact him or her
- Elder displays unexplained or unusual excitement over a financial windfall or prize check; maybe reluctant to discuss details
- Noticeable neglect or decline in appearance, grooming, or hygiene
- Sudden appearance of previously uninvolved relatives claiming their rights to the elder's affairs and possessions

#### **Suspicious Account Activity**

- A new caretaker, relative or friend suddenly begins conducting financial transactions on behalf of an elder without proper documentation or through a sudden change of Power of Attorney
- Abrupt changes to financial documents, such as power of attorney, account beneficiaries, wills, trusts, property titles, and deeds
- Uncharacteristic nonpayment for services, which may indicate a loss of funds or access to funds
- Closing of accounts without regard to penalties
- Noticeable change in senior's established banking or financial management habits or patterns, including:
  - Frequent large withdrawals,
  - Sudden NSF activity,
  - Inconsistent transactions, or
  - Uncharacteristic attempts to wire large sums of money
- Change of address on accounts to new recipient's address, especially when distant from elder's home
- Large withdrawals from a previously inactive account or a new joint account or a sudden appearance of credit card balances
- ☼ Suspicious signatures
- Unexplained disappearance of funds or valuable possessions

One or more of these red flags may indicate possible illegal activity. Follow up immediately as indicated on the back of this card.

# SENIOR\$AFE RED FLAGS FOR BROKERDEALERS AND INVESTMENT ADVISORS: PART 1

# SENIOR\$AFE RED FLAGS FOR BROKER-DEALERS AND INVESTMENT ADVISORS: PART 2

# **Senior\$afe** Quick Response Chart

#### If you are suspicious

- Inquire about the activity if inconsistent with consumer's normal behavior
- Suggest alternative to large cash withdrawals
- Make consumer aware of ways to limit risk of joint accounts
- Check documentation of the third party (e.g., power of attorney)
- Contact the appropriate person in your compliance department

If you suspect coercion in the presence of a third party

- Separate the senior from third party by ushering him or her to another location on the pretense of discussing private account information
- Contact the appropriate personnel at your firm

If you are still suspicious or if you fear senior is in immediate danger

- Always contact the appropriate personnel at your firm who will decide next steps
- Report to elder abuse hotline or call 911



[Insert state

securities logo]



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Serve Our Seniors is an initiative of the **North American Securities Administrators Association**, the voice of state and provincial securities regulators.





















With at least a third of its members' enforcement actions involving senior investors, NASAA developed this website to provide resources for senior investors, family caregivers, the securities industry, and policymakers.

Learn More About Us









# **QUESTIONS?**

Thank you for coming!

For further questions you can reach the Securities Division at (617) 727-3548