



Elder Abuse and Financial Exploitation

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**NASAA
FACT SHEET**

NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation

Background

Protecting senior investors from financial exploitation has long been a primary focus of NASAA members. The latest example of this ongoing commitment is the NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation. The act is an initiative of the NASAA Committee on Senior Issues and Diminished Capacity and was developed by the committee's Legislation and Regulation Working Group throughout 2015. On Sept. 29, 2015, the proposed model act was released for a 30-day public comment period. In response to the comments received and as the result of further internal review, the Working Group and the Seniors Committee revised the model act. The Working Group and Seniors Committee also considered FINRA's proposed Regulatory Notice 15-37 as part of its overall review. On Dec. 22, 2015, NASAA's Board of Directors approved the committee's request to submit the proposed model act to the NASAA membership for consideration. On Jan. 22, 2016, NASAA members voted to adopt the model act.

Overview

The NASAA model act gives industry participants and state regulators new tools to help detect and prevent financial exploitation of vulnerable adults. The act mandates reporting to a state securities regulator and state adult protective services agency when a qualified individual has a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred. The act also authorizes disclosure to third parties only in instances where an eligible adult has previously designated the third party to whom disclosure may be made. Importantly, the act directs that disclosures may not be made to the third party if the qualified individual suspects the third party of the financial exploitation.

Application

Under the act, "eligible adults" include those age 65 or older and those adults who would be subject to the provisions of a state's adult protective services statute. "Qualified individuals" include broker-dealer agents; investment adviser representatives; those who serve in a supervisory, compliance, or legal capacity for broker-dealers and investment advisers; and any independent contractors that may be fulfilling any of those roles.

Key Provisions

- **Mandatory Reporting.** Qualified individuals who reasonably believe that financial exploitation of an eligible adult may have occurred, been attempted, or is being attempted, must promptly notify Adult Protective Services and their state securities regulator. During the comment process, some commenters noted that a mandatory reporting requirement could increase reports to state agencies. The number of unsubstantiated reports should be kept to a minimum given the ‘reasonable belief’ standard upon which a report is required to be made.
- **Notification.** The act authorizes disclosure to third parties only in instances where an eligible adult has previously designated the third party to whom the disclosure may be made. Importantly, the model act directs that disclosure may not be made to the third party if the qualified individual suspects the third party of the financial exploitation.
- **Delayed Disbursements.** The act provides broker-dealers and investment advisers with the authority to delay disbursing funds from an eligible adult’s account for up to 15 business days if the broker-dealer or investment adviser reasonably believes that a disbursement would result in the financial exploitation of the eligible adult. If the broker-dealer or investment adviser delays a disbursement, it must notify people authorized to transact business on the account (unless these individuals are suspected of the financial exploitation), notify the state securities regulator and the adult protective services agency, and undertake an internal review of the suspected exploitation. Under the model, the securities regulator or adult protective services agency may request an extension of the delay for an additional 10 business days. Extensions beyond that could be ordered by a court.
- **Immunity.** The act’s immunity provisions are applicable to the reporting of suspected financial abuse to governmental agencies, the disclosure of information to designated third parties, and the decision to delay disbursements. The immunity provisions provide immunity from administrative and civil liability for qualified individuals, broker-dealers, or investment advisers who, in good faith and exercising reasonable care, comply with the provisions of the act.
- **Records.** The act requires that broker-dealers and investment advisers comply with requests for information from APS agencies or law enforcement in cases of suspected or attempted financial exploitation. The act further clarifies that the granting of such access shall not be construed to subject the records of the broker-dealer or investment adviser to a state’s public records laws.

NEXT STEPS

The NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation currently is available to NASAA members for consideration in their jurisdictions. The act may be adopted as legislation during state legislative sessions or implemented by regulation. Whether adoption is by legislation or regulation depends on individual jurisdictions. Jurisdictions considering the model act as legislation or regulation also may need to consider certain small changes to terms.

NASAA MODEL LEGISLATION OR REGULATION TO PROTECT VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

Adopted January 22, 2016

Prefatory note:

Jurisdictions considering this model legislation or regulation, whether through legislative sessions or rulemaking, may need to consider certain small changes to terms, particularly with regard to certain designated terms. For example, this model refers to the “commissioner of securities” or “state securities commissioner” but in certain jurisdictions, that position may be held by a director of securities, or commissioner of banking and securities, or commissioner of corporations. Furthermore, this model refers to Adult Protective Services, but certain jurisdictions may require a more specific reference to the agency by exact name. Finally, with regard to Section 2 (Definitions), certain jurisdictions may use different defined terms (e.g. salesmen instead of broker-dealer agents); therefore, Section 2 may require certain slight changes to the definitions to align with existing securities statutes.

An Act to Protect Vulnerable Adults from Financial Exploitation.

Section 1. Short title. Sections ___ to ___ may be cited as “An Act to Protect Vulnerable Adults from Financial Exploitation” and in this chapter as this act.

Section 2. Definitions. In this act, unless the context otherwise requires:

- (1) “**Agent**” shall have the same meaning as in [insert state code section].
- (2) “**Broker-dealer**” shall have the same meaning as in [insert state code section].
- (3) “**Eligible adult**” means:
 - (a) a person sixty-five years of age or older; or
 - (b) a person subject to [insert state Adult Protective Services statute]
- (4) “**Financial exploitation**” means:
 - (a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets or property of an eligible adult; or
 - (b) any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, to:
 - i. Obtain control, through deception, intimidation or undue influence, over the eligible adult’s money, assets or property to deprive the eligible adult of the ownership, use, benefit or possession of his or her money, assets or property; or

- ii. Convert money, assets or property of the eligible adult to deprive such eligible adult of the ownership, use, benefit or possession of his or her money, assets or property.

(5) “**Investment Adviser**” shall have the same meaning as in [insert state code section].

(6) “**Investment Adviser Representative**” shall have the same meaning as in [insert state code section].

(7) “**Qualified individual**” means any agent, investment adviser representative or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

Section 3. Governmental Disclosures. If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the qualified individual shall promptly notify Adult Protective Services and the commissioner of securities (collectively “the Agencies”).

Section 4. Immunity for Governmental Disclosures. A qualified individual that in good faith and exercising reasonable care makes a disclosure of information pursuant to section 3 shall be immune from administrative or civil liability that might otherwise arise from such disclosure or for any failure to notify the customer of the disclosure.

Section 5. Third-Party Disclosures. If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, a qualified individual may notify any third party previously designated by the eligible adult. Disclosure may not be made to any designated third party that is suspected of financial exploitation or other abuse of the eligible adult.

Section 6. Immunity for Third-Party Disclosures. A qualified individual that, in good faith and exercising reasonable care, complies with section 5 shall be immune from any administrative or civil liability that might otherwise arise from such disclosure.

Section 7. Delaying Disbursements. (1) A broker-dealer or investment adviser may delay a disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

- (a) the broker-dealer, investment adviser, or qualified individual reasonably believes, after initiating an internal review of the requested disbursement and the suspected financial exploitation, that the requested disbursement may result in financial exploitation of an eligible adult; and
- (b) the broker-dealer or investment adviser:

- i. Immediately, but in no event more than two business days after the requested disbursement, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any such party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;
- ii. Immediately, but in no event more than two business days after the requested disbursement, notifies the Agencies; and
- iii. Continues its internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and reports the investigation's results to the Agencies within seven business days after the requested disbursement.

(2) Any delay of a disbursement as authorized by this section will expire upon the sooner of:

- (a) a determination by the broker-dealer or investment adviser that the disbursement will not result in financial exploitation of the eligible adult; or
- (b) fifteen business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds, unless either of the Agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay shall expire no more than twenty-five business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds unless sooner terminated by either of the agencies or an order of a court of competent jurisdiction.

(3) A court of competent jurisdiction may enter an order extending the delay of the disbursement of funds or may order other protective relief based on the petition of the commissioner of securities, Adult Protective Services, the broker-dealer or investment adviser that initiated the delay under this Section 7, or other interested party.

Section 8. Immunity for Delaying Disbursements. A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with section 7 shall be immune from any administrative or civil liability that might otherwise arise from such delay in a disbursement in accordance with this section.

Section 9. Records. A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to agencies charged with administering state adult protective services laws and to law enforcement, either as part of a referral to the agency or to law enforcement, or upon request of the agency or law enforcement pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation of an eligible adult. All records made available to agencies under this section shall not be considered a public record as defined in [State public records law]. Nothing in this provision shall limit or otherwise impede the authority of the state securities commissioner to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.



CYRUS R. VANCE, JR.
DISTRICT ATTORNEY

DISTRICT ATTORNEY – NEW YORK COUNTY

FOR IMMEDIATE RELEASE
April 12, 2016

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**DA VANCE: LINA VAZQUEZ INDICTED FOR STEALING APPROXIMATELY
\$42,000 FROM 93-YEAR-OLD VETERAN**

Manhattan District Attorney Cyrus R. Vance, Jr., today announced the indictment of LINA VAZQUEZ, 48, for stealing approximately \$42,000 from her elderly neighbor by making unauthorized ATM withdrawals. The defendant is charged in a New York State Supreme Court indictment with Grand Larceny in the Third Degree and Identity Theft in the First Degree.¹

“In just three months, Lina Vazquez is accused of stealing approximately \$42,000 from her elderly neighbor by repeatedly withdrawing large amounts of cash from his checking account,” said District Attorney Vance. “The frequent withdrawals – often multiple per day – went unnoticed until the victim’s friend discovered the theft.

“Scammers regularly befriend older victims to gain access to their personal information and conceal theft and fraud. I encourage anyone who believes that an older friend, relative, or loved one may be the victim of this type of fraud to call my Office’s Elder Abuse Hotline at 212-335-9007.”

According to court documents and statements made on the record in court, between July 1, 2015 and September 30, 2015, VAZQUEZ stole approximately \$42,000 from her neighbor, a 93-year-old veteran. The victim, who did not leave his home unaided, often paid VAZQUEZ to assist him with paperwork and other tasks at his Chelsea apartment. During the time period charged in the indictment, VAZQUEZ made approximately 85 unauthorized ATM withdrawals from the victim’s checking account. The victim’s friend, who he had granted power of attorney, discovered the theft, confronted VAZQUEZ, and contacted law enforcement. VAZQUEZ sent the victim a check for \$800 – the only restitution she has paid to date.

On February 10, 2016, in a separate, unrelated case, TIFFANY WRIGHT pleaded guilty to Grand Larceny in the Third Degree and Offering a False Instrument for Filing in the First Degree.

¹The charges contained in the indictment are merely allegations, and the defendant is presumed innocent unless and until proven guilty. All factual recitations are derived from documents filed in court and statements made on the record in court.

WRIGHT stole approximately \$6,000 from her 91-year-old neighbor after opening a joint checking account with the victim, which WRIGHT offered to open under the pretense of helping to pay the victim's bills. WRIGHT then transferred money from the joint account into her personal account and used the stolen funds to pay her credit card bill and other personal expenses. She also failed to claim the stolen money on her tax return and income affidavit for the New York City Housing Authority. WRIGHT is expected to be sentenced on April 13, 2016.

Assistant District Attorney Jenna Bergamo is handling the prosecution of the VAZQUEZ case under the supervision of Assistant District Attorneys Catherine Christian, Chief of the Elder Abuse Unit; Warren Murray, Chief of Trial Bureau 50; and Executive Assistant District Attorney John Irwin, Chief of the Trial Division.

Assistant District Attorney Erin Reid handled the prosecution of the WRIGHT case under the supervision of Assistant District Attorneys Emilio Estela, Deputy Bureau Chief of Trial Bureau 70; Catherine Christian, Chief of the Elder Abuse Unit; Alfred Peterson, Chief of Trial Bureau 70; and Executive Assistant District Attorney John Irwin, Chief of the Trial Division. Former Appellate Counsel to the Investigation Division Amyjane Rettew, Elder Abuse Coordinator Melanie Chan, Senior Rackets Investigator Lauren Liebhauser, and Financial Investigator Elaine Li of the Forensic Accounting and Financial Investigations ("FAFI") Bureau provided assistance, under the supervision of Irene Serrapica, Deputy Bureau Chief of FAFI, and Robert Demarest, Bureau Chief of FAFI.

Defendant Information:

LINA VAZQUEZ, D.O.B. 11/17/1967
New York, NY

Charges:

- Grand Larceny in the Third Degree, a class D felony, one count
- Identity Theft in the First Degree, a class D felony, one count

TIFFANY WRIGHT, D.O.B. 11/2/1982
New York, NY

Convicted:

- Grand Larceny in the Third Degree, a class D felony, one count
- Offering a False Instrument for Filing in the First Degree, a class E felony, one count

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New York County District Attorney | 212-335-9400



CYRUS R. VANCE, JR.
DISTRICT ATTORNEY

DISTRICT ATTORNEY – NEW YORK COUNTY

FOR IMMEDIATE RELEASE
January 15, 2016

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**DA VANCE: FORMER BANK EMPLOYEE CHARGED FOR STEALING
APPROXIMATELY \$178,000 FROM ELDERLY CUSTOMER**

Manhattan District Attorney Cyrus R. Vance, Jr., announced the indictment of JOVAN CUNNINGHAM, 34, for stealing approximately \$178,000 from an 83-year-old customer at the bank where he was employed. The defendant is charged in a New York State Supreme Court indictment with Grand Larceny in the Second Degree.¹

“This defendant is accused of stealing from a blind, elderly woman whose only mistake was trusting him,” said District Attorney Vance. “It’s an unfortunate reality that all too often seniors fall prey to financial crimes perpetrated by those they trust. In an effort to spread awareness about this type of elder abuse and prevent future crimes, my Office and our partners recently [hosted](#) a Senior Scam Prevention Week aimed at educating the public about common scams and tips for prevention. I strongly encourage anyone who believes that he or she may have been the victim of this type of fraud to call my Office’s Elder Abuse Hotline at 212-335-9007.”

According to the indictment and documents filed in court, from 2007 to 2013, CUNNINGHAM was an employee of People’s United Bank. Between November 5, 2011, and August 1, 2013, while working as a Customer Service Manager at a People’s United Bank branch located at 127 Seventh Avenue in Manhattan, CUNNINGHAM stole approximately \$178,000 from a blind, elderly customer of the bank. She was nearly 84 years old in November 2011 when the defendant began stealing from her.

From the time the victim opened accounts at People’s United in 2009, bank personnel, including CUNNINGHAM, would assist her by bringing deposit or withdrawal slips to her apartment for her to sign, and bringing back the small amounts of cash that she had requested. Occasionally, bank personnel would assist the victim by writing checks for her sign in order to pay for rent and other

¹The charge contained in the indictment is merely an allegation, and the defendant is presumed innocent unless and until proven guilty. All factual recitations are derived from documents filed in court and statements made on the record in court.

expenses. The victim would occasionally withdraw cash in amounts less than \$100 once every three-to-six weeks. However, the bank account was used mainly for investment purposes.

Over time, the victim came to depend on CUNNINGHAM as her primary contact at the bank. Additionally, the victim invested money in Treasury bonds, and CUNNINGHAM would assist by preparing checks for her to sign to complete these transactions.

Between November 2011 and May 2013, CUNNINGHAM withdrew more than \$150,000 in cash from the victim's account in more than 50 separate unauthorized withdrawals. The victim did not authorize any cash withdrawals over \$100 and many of these unauthorized withdrawals were between \$2,000 and \$4,500. During one eight-day period in April 2013, more than \$20,000 in cash was withdrawn from the victim's accounts.

The victim was unaware that this money was being withdrawn from her account. She never received more than \$100 in cash from CUNNINGHAM at any time. The larceny was only discovered when CUNNINGHAM wrote two checks to himself from a separate account of the victim's in the summer of 2013.

Assistant District Attorney Peter Rienzi is handling the prosecution of the case, under the supervision of Assistant District Attorney Gloria Garcia, Deputy Chief of the Financial Frauds Bureau; Assistant District Attorney Archana Rao, Principal Deputy Chief of the Financial Frauds Bureau; Assistant District Attorney Michael Sachs, Chief of the Financial Frauds Bureau; Assistant District Attorney Catherine Christian, Chief of the Elder Abuse Unit; and Executive Assistant District Attorney David Szuchman, Chief of the Investigation Division. Investigative assistance was provided by Senior Rackets Investigators Thomas Mullin, and David Moser, under the supervision of Supervising Rackets Investigator Donato Siciliano, Deputy Chief Investigator Santiago Batista, Assistant Chief Investigator Michael Wigdor, and Chief Investigator Walter Alexander. Elder Abuse Unit Coordinator Melanie Chan, Paralegal Julien Tunney, Victim Services Case Worker Karina Abro, and Financial Intelligence Director David Rosenzweig also assisted with the investigation.

District Attorney Vance thanked Detectives Ramon Caraballo and Francis Hill of the Muhlenberg Township Police Department for their assistance.

Defendant Information:

JOVAN CUNNINGHAM, D.O.B 03/14/1981

Charges:

- Grand Larceny in the Second Degree, a class C felony, one count

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New York County District Attorney | 212-335-9400



DISTRICT
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COUNTY

Be careful of scams!

The Elder Abuse Unit at the Manhattan District Attorney's Office helps protect senior citizens from crimes of physical abuse, domestic violence, financial exploitation, and neglect.

Anyone who believes that he or she may be or know a victim of elder abuse should call the Manhattan District Attorney's Office's Elder Abuse Hotline: **212-335-9007**

Top Scams Targeting Seniors

LOTTERY: Victims are informed that they have won a lottery or sweepstakes of some kind, and that they will need to make a payment to unlock their prize. Often, scammers will ask for credit card information or payment by phone.

EVIL SPIRITS: Perpetrators target older Chinese victims, convincing them that they are cursed by evil spirits and offering to cure them by "cleansing" their valuable possessions, including cash and jewelry. The scammers then make off with the cash and jewelry.

FAMILY MEMBERS/HOME HEALTHCARE AIDES: According to the National Council on Aging, 90% of all reported crimes against seniors are committed by their own family members. Similarly, a high number of thefts, abuse, and scams are committed by aides hired to assist and care for seniors.

CHARITY: This scam involves phone solicitors who claim to represent a charitable organization, such as a police foundation or group supporting natural disaster victims, by accepting "donations" under false pretenses.

GRANDPARENT: Scammers will place a call to a senior. When the victim answers, they will say something along the lines of: "Hi, Grandma. Do you know who this is?" When the unsuspecting grandparent guesses a grandchild of theirs, the scammer has established a fake identity, which they use to extort money. In a similar version of this scam, perpetrators tell the victim that their grandchild has been arrested abroad and they are unable to reach their parents to pay the bail. This scam requires a perpetrator with some inside knowledge of the victim's family.

IRS: A caller claims to be collecting a past due debt, often from a utility company, the IRS, or as settlement for a car accident. Victims are threatened with the loss of utilities, possible deportation, or prosecution if they don't make immediate payment by wiring money, providing their credit card information or using a pre-paid card.

HEALTHCARE/MEDICARE: Perpetrators pose as an insurance representative offering non-legitimate services for seniors at makeshift mobile clinics if they provide their personal information. The scammers then use the information to submit a bill for false services and pocket the money.

DECEPTION BURGLARY: Scammers working in pairs impersonate utility or contracted workers conducting a safety check of water, electricity, or gas. Once inside the victim's home, one perpetrator distracts the victim while the other steals property.

INVESTMENT: From high-level Ponzi schemes to emails from far-away princes that need help unlocking their fortune, investment scams are incredibly varied and prominent in senior communities. They are generally perpetrated via phone, mail, and email.

HOMEOWNER/REVERSE MORTGAGE: Perpetrators involved in this predatory lending scam offer money or a free house somewhere else in exchange for the title of a victim's property. Often these perpetrators don't own the home they offer or fail to pay, leaving victims of the scam homeless.

Anyone who believes that he or she may be or know a victim of elder abuse should call the Manhattan District Attorney's Office's Elder Abuse Hotline:

▶▶▶ 212-335-9007 ◀◀◀

How to Protect Yourself and Your Loved Ones

- Never give out financial or personal information to anyone who contacts you unsolicited.
- Be wary of callers who demand immediate payment for any reason.
- If it seems too good to be true, it probably is. Never be afraid to ask for a second opinion or more information.
- Request to verify the employment of any worker who asks to enter your home.
- Be suspicious of anyone who claims you have won a contest or lottery that you don't remember entering.
- Never wire money, provide debit, credit card, or bank account numbers to someone you do not know.
- Legitimate utility companies and government agencies will never demand payment in the form of Green Dot Money-Pak or other pre-paid cards.
- Family members should be vigilant when hiring caregivers for seniors. They should monitor bank accounts and credit card bills for unusual spending and be on the lookout for any signs of physical abuse.



Department of the Treasury Financial Crimes Enforcement Network

Advisory

FIN-2011-A003

Issued: February 22, 2011

**Subject: Advisory to Financial Institutions on Filing Suspicious Activity Reports
Regarding Elder Financial Exploitation**

The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to assist the financial industry in reporting instances of financial exploitation of the elderly, a form of elder abuse.¹ Financial institutions can play a key role in addressing elder financial exploitation due to the nature of the client relationship. Often, financial institutions are quick to suspect elder financial exploitation based on bank personnel familiarity with their elderly customers. The valuable role financial institutions can play in alerting appropriate authorities to suspected elder financial exploitation has received increased attention at the state level; this focus is consistent with an upward trend at the federal level in Suspicious Activity Reports (SARs) describing instances of suspected elder financial exploitation.² Analysis of SARs reporting elder financial exploitation can provide critical information about specific frauds and potential trends, and can highlight abuses perpetrated against the elderly.

This advisory contains examples of “red flags” based on activity identified by various state and federal agencies and provides a common narrative term that will assist law enforcement in better identifying suspected cases of financial exploitation of the elderly reported in SARs.

Older Americans hold a high concentration of wealth as compared to the general population. In the instances where elderly individuals experience declining cognitive or physical abilities, they may find themselves more reliant on specific individuals for their physical well-being, financial management, and social interaction. While anyone can be a victim of a financial crime such as identity theft, embezzlement, and fraudulent schemes, certain elderly individuals may be particularly vulnerable.

Potential Indicators of Elder Financial Exploitation

The following red flags could indicate the existence of elder financial exploitation. This list of red flags identifies only *possible* signs of illicit activity. Financial institutions

¹ Abuse and exploitation of the elderly is statutorily defined at the state level. The National Center on Elder Abuse offers the following definition of exploitation as a type of elder abuse: “the illegal taking, misuse, or concealment of funds, property, or assets of a vulnerable elder.”

² Bank Secrecy Act data reflects increasing use of terms related to elder financial exploitation/abuse in SAR narratives.

should evaluate indicators of potential financial exploitation in combination with other red flags and expected transaction activity being conducted by or on behalf of the elder. Additional investigation and analysis may be necessary to determine if the activity is suspicious.

Financial institutions may become aware of persons or entities perpetrating illicit activity against the elderly through monitoring transaction activity that is not consistent with expected behavior. In addition, financial institutions may become aware of such scams through their direct interactions with elderly customers who are being financially exploited. In many cases, branch personnel familiarity with specific victim customers may lead to identification of anomalous activity that could alert bank personnel to initiate a review of the customer activity.

- Erratic or unusual banking transactions, or changes in banking patterns:
 - Frequent large withdrawals, including daily maximum currency withdrawals from an ATM;
 - Sudden Non-Sufficient Fund activity;
 - Uncharacteristic nonpayment for services, which may indicate a loss of funds or access to funds;
 - Debit transactions that are inconsistent for the elder;
 - Uncharacteristic attempts to wire large sums of money;
 - Closing of CDs or accounts without regard to penalties.
- Interactions with customers or caregivers:
 - A caregiver or other individual shows excessive interest in the elder's finances or assets, does not allow the elder to speak for himself, or is reluctant to leave the elder's side during conversations;
 - The elder shows an unusual degree of fear or submissiveness toward a caregiver, or expresses a fear of eviction or nursing home placement if money is not given to a caretaker;
 - The financial institution is unable to speak directly with the elder, despite repeated attempts to contact him or her;
 - A new caretaker, relative, or friend suddenly begins conducting financial transactions on behalf of the elder without proper documentation;
 - The customer moves away from existing relationships and toward new associations with other "friends" or strangers;
 - The elderly individual's financial management changes suddenly, such as through a change of power of attorney to a different family member or a new individual;

- The elderly customer lacks knowledge about his or her financial status, or shows a sudden reluctance to discuss financial matters.

Suspicious Activity Reporting

SARs continue to be a valuable avenue for financial institutions to report elder financial exploitation. Consistent with the standard for reporting suspicious activity as provided for in 31 CFR Part 103 (future 31 CFR Chapter X), if a financial institution knows, suspects, or has reason to suspect that a transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction, the financial institution should then file a Suspicious Activity Report.³

In order to assist law enforcement in its effort to target instances of financial exploitation of the elderly, FinCEN requests that financial institutions select the appropriate characterization of suspicious activity in the Suspicious Activity Information section of the SAR form and include the term “elder financial exploitation” in the narrative portion of all relevant SARs filed. The narrative should also include an explanation of why the institution knows, suspects, or has reason to suspect that the activity is suspicious. It is important to note that the potential victim of elder financial exploitation *should not be reported as the subject* of the SAR. Rather, all available information on the victim should be included in the narrative portion of the SAR.

Elder abuse, including financial exploitation, is generally reported and investigated at the local level, with Adult Protective Services, District Attorney’s offices, sheriff’s offices, and police departments taking key roles. We emphasize that filers should continue to report all forms of elder abuse according to institutional policies and the requirements of state and local laws and regulations, where applicable. Financial institutions may wish to consider how their AML programs can complement their policies on reporting elder financial exploitation at the local and state level.

Financial institutions with questions or comments regarding this Advisory should contact FinCEN’s Regulatory Helpline at 800-949-2732.

³ Financial institutions shall file with FinCEN to the extent and in the manner required a report of any suspicious transaction relevant to a possible violation of law or regulation. A financial institution may also file with FinCEN a Suspicious Activity Report with respect to any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by FinCEN regulations. *See, e.g.*, 31 CFR § 103.18(a) (future 31 CFR § 1020.320(a)).

