TOGETHER WE CAN TAKE ON ANYTHING

Senior Financial Protection

By: NAIFA Government Relations, Updated September 2023

The Issue

Each year, vulnerable adults - especially seniors who are suffering from cognitive decline - are victims of financial exploitation by unscrupulous individuals. To ensure that seniors are protected from financial abuse, a number of states have enacted or are considering model legislation from the National Association of State Securities Administrators (NASAA) that requires financial advisers and their firms to report suspected financial exploitation of a senior client to state authorities. The NASAA model law, Protect Vulnerable Adults from Financial Exploitation Act, also permits firms to temporarily delay suspicious transactions to provide authorities time to investigate the possible fraudulent activity, and it provides advisors and firms with immunity from liability for taking steps to protect their clients' financial assets by following the provisions of the law.

NAIFA Position

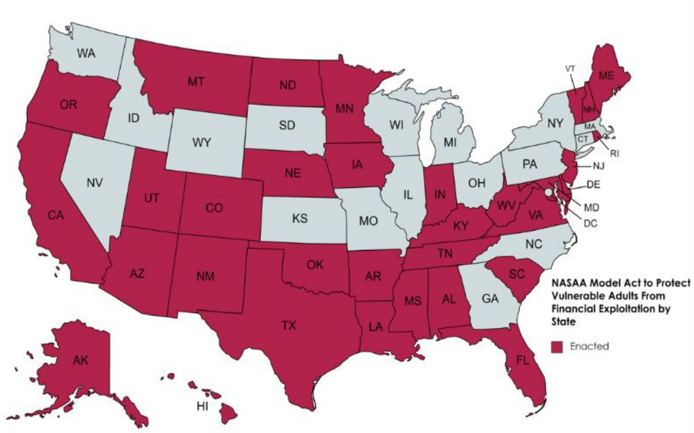
NAIFA supports state legislation intended to protect seniors and other vulnerable adults from financial fraud and exploitation if it contains certain provisions:

- **A voluntary, not mandatory, reporting process:** A mandatory notification requirement could result in firms and advisors reporting an excessive number of transactions with many based on limited evidence or suspicion to avoid legal liability. To better protect their clients' assets from financial loss, advisors and firms should have flexibility in determining whether a disbursement request relates to financial exploitation since reporting and delaying such a request could potentially devalue a client's potential investment.

- **Permit advisors to report suspected financial exploitation of a senior client to their firms, rather than directly to authorities:** The determination of whether to report should be made at the firm level rather than solely by advisors. This would allow for an additional "set of eyes" to review a suspicious transaction, and it would ensure that reports to authorities are more likely to involve actual financial exploitation.

- **A legal "safe harbor" provision for advisors who report suspected financial exploitation:** Advisors and their firms should be immune from liability for following the law's provisions. In the absence of such legal protection, an adviser who reports a suspicious transaction may be held liable for potentially violating the client's privacy or confidentiality by doing the right thing to protect their client from financial exploitation and fraud.

Status



Thirty-two (32) states currently have NASAA's Protect Vulnerable Adults from Financial Exploitation Act in place.

NAIFA encourages the outstanding states to enact legislation expanding the uniformity and protection for seniors.

Additional Questions? Contact Us.

For additional questions or assistance, please contact NAIFA State Government Relations, Bianca Alonso Weiss at bweiss@naifa.org or visit advocacy.naifa.org.