

NASAA Members Adopt Model Act to Protect Seniors and Vulnerable Adults

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Model Delivered to Jurisdictions to Pursue as Legislation or Regulation

WASHINGTON, D.C. (February 1, 2016) – In a significant step toward providing much needed protection for seniors and vulnerable adults, the North American Securities Administrators Association (NASAA) today announced that its membership has voted to adopt a model act designed to protect vulnerable adults from financial exploitation.

The model, entitled “An Act to Protect Vulnerable Adults from Financial Exploitation,” provides new tools to help detect and prevent financial exploitation of vulnerable adults.

“The NASAA model act will help securities regulators, investment advisers and broker-dealers, as well as Adult Protective Services agencies work in partnership to protect our most vulnerable investors,” said Judith Shaw, NASAA President and Maine Securities Administrator. “I am pleased that the NASAA membership adopted this model act, which now is available for individual jurisdictions throughout the United States to enact as legislation or implement through regulation.”

The model act:

- Mandates reporting to the state securities regulator and state adult protective services agency when a qualified individual such as a securities broker or investment adviser has a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred.
- Authorizes notification 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 part of the financial exploitation.
- Enables broker-dealers or investment advisers to impose an initial delay of disbursements from an account of an eligible adult for up to 15 business days if financial exploitation is suspected. The delay can be extended for an additional 10 days at the request of either the state securities regulator or adult protective services.
- Provides immunity from administrative or civil liability for broker-dealers and investment advisers for taking actions including delaying disbursements as permitted under the act.
- Requires qualified individuals such as securities brokers or investment advisers to provide records that are relevant to the suspected or attempted financial exploitation to government authorities.

The model act applies to adults age 65 and older and individuals who qualify for protection under a state adult protective services statute. The model act defines “qualified individual” as 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.

Shaw highlighted the act’s mandatory reporting requirement, which, combined with the act’s immunity provision, will create incentives to encourage broker-dealers and investment advisers to report potential financial exploitation as early as possible, when their intervention may be able to prevent harm or limit the damage to victims of financial exploitation.

“The ability to have a regulator assess the situation and determine whether additional resources should be brought to bear is a key component of any responsible approach intended to provide meaningful protection to vulnerable investors,” Shaw said. “Requiring reporting at the individual agent and adviser level is appropriate because these

individuals often have closer relationships with their clients and customers and time is of the essence when fighting elder financial exploitation.”

The model act was developed by the Legislation and Regulation Working Group of NASAA’s Board-level Committee on Senior Issues and Diminished Capacity. Following a public comment period, the model was submitted to the NASAA membership for consideration in December, 2015.

The full text of the model act, along with background information is available on the [Policymakers section](#) of NASAA’s new website, [ServeOurSeniors.org](#), which launched in December 2015 and is designed to provide senior-focused resources to investors, caregivers, industry and policymakers.

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