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# **SAFEGUARDS AGAINST ELDER FINANCIAL ABUSE**

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# Safeguards Against Elder Financial Abuse

by David Silver

Grandma goes to her banker or investment advisor and asks that \$15,000.00 be used from her account to purchase a gift card. The financial professional suspects that grandma is the victim of a scam, but it is grandma's money, grandma is insisting that this be done now, and she is adamant that no one must know about this. If the banker/advisor could let someone know, grandma might be able to avoid being scammed, or at least prevent additional scams (if a scam works once, the scammers will not stop trying to get more funds from the same victim). However, grandma's privacy is also extremely important and the banker/advisor doesn't want to be sued or lose her job.

Seniors are the main victims of the \$16.8 billion per year identity theft and cybercrime industry in the U.S. They are particularly targeted because they often have access to money, are stereotyped as having less familiarity with modern technology, and may have age-related physical and/or cognitive deterioration that could make them more susceptible to financial abuse. In 2018, Congress and FINRA

(the Financial Industry Regulatory Authority) gave us some tools to help protect seniors from financial abuse.

FINRA's "Trusted Contact" rule allows owners of investment accounts to designate with their brokers or advisors names and contact information of people who can be contacted if the broker/advisor believes that some suspicious activity has occurred. These trusted contacts do not have the authority to get any account details, but the broker/advisor would have the authority to call these trusted contacts and let them know of suspicious activity such as unexplained and uncharacteristic withdrawals or transfers. If you or your loved one do not already have trusted contracts attached to all investment or brokerage accounts, I suggest you type up a simple letter, include your name and account number(s) and state: "Pursuant to FINRA Rule 4512, I designate the following as my trusted contacts:..." and list their names, phone numbers and email addresses.

FINRA's "Temporary Hold" rule allows a broker to place a temporary hold, up to 15 days, on disbursements from an account if those disbursements seem suspicious. This rule only applies to accounts belonging to investors age 65 and older or investors with mental or physical impairments that the broker reasonably believes make it difficult for the investor to protect his or her own financial interests. This 15 day temporary hold might be worthless unless the client also has designated a Trusted Contact.

While the FINRA rules do not apply to all financial institutions, The Senior Safe Act passed by Congress applies much more broadly. This Act protects the employees and companies of covered institutions (including banks, brokers, advisors, insurance agents, etc) from liability and privacy violations if they alert police or Adult Protective Services about potential elder financial abuse against someone age 65 or over. In order to obtain this immunity protection, the employee must receive specialized training on how to identify and report the suspected exploitation of a senior citizen, recognize common signs of financial exploitation, and handle reporting and disclosure considerations with appreciation of the need to protect the privacy and respect the integrity of the individual customer.

Neither the Senior Safe Act nor the FINRA rules require an employee or a financial institution to do anything, and no one should expect these employees and companies to be the primary guardian against financial abuse. However, the employees of financial institutions are our friends and neighbors and they usually want to help if they can. You can make it easier on them by providing your broker/advisor with trusted contacts for you and your loved ones, ask your banker if they have received Senior Safe Act training, and you can make sure that at least one person at your bank knows you well enough that they might be able to recognize when something is wrong.

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