

Regulators Release Interagency Statement on Elder Financial Exploitation

December 9, 2024

The Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, the Office of the Comptroller of the Currency, and state financial regulators, including the New York Department of Financial Services (“DFS”) (collectively, “the Agencies”) have issued an interagency statement (the “Interagency Statement”) providing examples of practices for financial institutions that may be effective in identifying, preventing, and responding to elder financial exploitation. The Interagency Statement does not impose any new requirements on financial institutions; rather, it is intended to raise awareness and help financial institutions understand potential strategies in combatting elder financial exploitation.

The Interagency Statement advises financial institutions to adopt risk management practices that allow financial institutions to identify, monitor and control the risks related to elder financial exploitation. The Agencies highlight recent studies demonstrating significant financial losses within the United States for older adult victims of elder financial exploitation and further provides Bank Secrecy Act (“BSA”) data indicating a growing number of BSA filings related to elder financial exploitation, constituting an increasing money laundering threat to financial institutions.

Best Practices: Risk Management Practices that Prevent Elder Financial Exploitation

The Agencies provide examples of risk management practices that financial institutions may adopt, including the following:

- **Governance and Oversight-** Developing risk-based policies, internal controls, employee codes of conduct, ongoing transaction monitoring practices, and complaint processes to identify, measure, control, and mitigate elder financial exploitation. Additionally, financial institutions are advised to employ a governance structure with clear roles and responsibilities where communication is maintained among departments responsible for monitoring unusual account activity, for example, across functions such as BSA compliance, fraud prevention, and consumer protection, including fair lending.
- **Employee Training-** Administering an employee training program providing clear, comprehensive, and recurring training for their employees to recognize and respond to elder financial exploitation. Elements of a training program may include demonstrating ways to identify transactional and behavioral red flags, providing proactive approaches to detect and prevent financial exploitation, and detailing an escalation process for employees to administer in the event they suspect malicious activity.
- **Using Transaction Holds and Disbursement Delays-** Establishing and implementing policies and procedures, subject to applicable laws and regulations, to temporarily hold a transaction or delay a disbursement of

funds when they suspect financial exploitation.

- **Using Trusted Contacts-** Enabling account holders to designate one or more trusted contacts that employees can contact when elder financial exploitation is suspected. Financial Institutions are advised to develop clear and effective procedures for when and how to advise the trusted contact, taking into account applicable privacy laws and other legal limitations.
- **Filing SARs Involving Suspected Elder Financial Exploitation-** Requiring the filing of a SAR in instances of suspected elder financial exploitation where there may be suspected violations of law or regulation, or even in instances of suspicious activity that would not meet the requirements for mandatory filing.
- **Reporting to Law Enforcement, Adult Protective Services (APS), or Other Entities-** Developing procedures for timely reporting of elder financial exploitation to appropriate local, state, or federal agencies. Financial institutions are advised to be aware of state laws requiring the reporting of suspected elder financial exploitation to APS, local law enforcement, and/or regulatory authorities. Additionally, financial institutions are urged to voluntarily notify law enforcement directly to expedite investigation and prosecution.
- **Providing Financial Records to Appropriate Authorities-** Expediting documentation requests from APS, law enforcement, or other investigatory agencies for active elder financial exploitation cases.
- **Engaging with Elder Fraud Prevention and Response Networks-** Engaging with elder fraud prevention and response networks that collaborate with financial institutions to protect older adults from financial exploitation. These networks can help engage in professional cross-training, multidisciplinary case review and coordination, and community education efforts related to elder financial exploitation.
- **Consumer Outreach and Awareness-** Initiating consumer outreach campaigns intended to provide timely information about trending scams and ways to avoid them.

Elder Financial Exploitation Resources from Government Agencies

The Interagency Statement provides a comprehensive set of resources that financial institutions are encouraged to share with their account holders, and an appendix with a list of resources issued by federal and state agencies on elder financial exploitation.

These resources are made available in Appendix A to the [Interagency Statement on Elder Financial Exploitation](#).

How New York Financial Institutions Can Prevent Elder Financial Exploitation

New York chartered financial institutions are reminded of the 2015 DFS Industry Letter "*Guidance for Financial Institutions on Preventing Elder Financial Exploitation*" discussing the prevention of elder financial exploitation. Many of the best practices emphasized by the Interagency Statement were also discussed in the 2015 DFS Industry Letter. Some examples of common themes include, among other things, the development of red flag procedures to detect and report suspected elder exploitation, employee training to recognize and respond to instances of exploitation, and appointing staff within the organization to investigate and report elder exploitation to APS or other authorities.

Additionally, DFS similarly encouraged financial institutions to submit SAR filings whenever they possess a good faith belief that a customer is the subject of elder abuse. In making such SAR filings, New York financial institutions are shielded from liability that may potentially arise from making such a filing.

Financial institutions chartered in New York State are advised to review the 2015 DFS Industry Letter in light of the updated Interagency Statement.

Additional Information

The information discussed in this advisory may be accessed at the following locations:

- The 2024 Interagency Statement can be found online at: [Interagency Statement on Elder Financial Exploitation](#).
- The 2015 DFS guidance can be found online at: [Industry Letter - February 26, 2015: Guidance for Financial Institutions on Preventing Elder Financial Exploitation | Department of Financial Services](#).
- The DFS Elder Financial Exploitation website can be found at: [Consumers: Preventing Elder Financial Exploitation | Department of Financial Services](#).

If you have any questions regarding the Interagency Statement, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenllp.com, Elizabeth A. Murphy at (516) 296-9154, or via email at emurphy@cullenllp.com, David Curatolo at (516) 357-3733 or via email at dcuratolo@cullenllp.com, or Gabriela Morales at (516) 357-3850 or via email at gmorales@cullenllp.com.

Practices

- Banking and Financial Services

Attorneys

- Joseph D. Simon
- Elizabeth A. Murphy
- David Curatolo
- Gabriela Morales