

Financial Elder Abuse Reporting

OVERVIEW

In 1982 California adopted the Elder Abuse & Dependant Adult Civil Protection Act (Welfare & Institutions Code Section §15600, or the "Act"). The Act defines financial elder abuse as "occurring when any person or entity takes, secretes, appropriates or retains real or personal property of an elder or dependant adult with intent to wrongfully use or defraud, or who assists in doing so." It can also be defined as taking from any person with diminished capacity who is unable to make comprehensive financial decisions. (This can be a temporary or permanent condition.) An "elder" is defined as a person who has reached the age of 65 and "dependant adult" is a person age 18-64 with physical or mental disability that makes it difficult to handle physical or financial tasks or activities of daily living.

The original Act mandated health care practitioners, care custodians, employees of Adult Protective Services (APS), and law enforcement officers to report suspected financial abuse. Senate Bill No. §1018, known as the Financial Elder Abuse Reporting Act of 2005 and effective January 1, 2007, amends the earlier Act to include all officers and employees of financial institutions as mandated reporters of suspected financial abuse of an elder or dependant adult.

Further, the Act requires financial institutions to develop a written procedure for reporting to include:

- 1) steps to take when an employee has concern;
- 2) whom they tell and when the supervisor or manager should alert senior management;
- 3) what information should be gathered; and
- 4) who will make the report.

The rapid growth of the vulnerable senior population combined with the mass marketing techniques used by financial predators is driving up the number of fraudulent solicitations and activities. The elderly tend to be more trusting. Many seniors are victimized as a result of responding to mass mailings. They do not want to appear rude by hanging up on telemarketers who inform them that they have won a lottery, a new car, or an expensive trip and all that is required of them is to pay taxes on the winnings by transferring funds in the fastest manner possible.

The major deterrent for all fraud is awareness, prevention, education, and enforcement. Studies show that many victims are re-targeted as the perpetrators often sell contact information to other fraudulent operators.

How to Spot Financial Elder Abuse

Suspected financial abuse of an elder or dependant adult occurs when an employee observes or has knowledge of behavior, or sees a pattern of unusual circumstances or transactions, which would lead that individual to form a reasonable belief that the member is or may be the victim of financial abuse. We are not required to prove abuse. That is the job of state agencies and law enforcement. We are not expected to become experts in proving abuse, but we are in a position to help identify if it is taking place. It could be discovered through direct contact with the member or review of financial records or transactions.

Employees can help stop elder or dependant adult financial abuse if you know your member and are an active listener. By being alert and asking careful questions you play an important role in combating abuse. Observe their banking habits and look for signs of change. Some warning signs of financial or material exploitation include but are not limited to the following suspicious behavior:

- The member is accompanied to the credit union by someone new and he/she appears:
 - afraid, nervous or disoriented
 - pressured to make a withdrawal
 - pressured to open a joint account
 - concerned/confused about missing funds
 - unable to remember financial transactions
 - not allowed to speak for themselves or make decisions
- A companion appears nervous or behaves suspiciously
- Change in patterns of withdrawals/deposits
- Change of account owners or mailing address
- Withdrawals from previously inactive accounts
- Multiple checks payable to the same payee (individual or entity)
- Request for new lines of credit, or to increase existing lines
- Sudden overdrafts or unusual account activity
- Someone new tries to access the account
- A recent change of title of a house
- The granting of a power of attorney

If You Suspect Financial Elder Abuse

Normally it is not any one event that indicates financial abuse. It is a combination of factors that would lead a reasonable person to suspect it may be taking place. The following steps should be followed before a transaction is completed when an employee suspects a member may be the victim of financial abuse:

- Learn the reason for large transactions or withdrawals
- If someone other than the member is requesting the transaction, verify that that person has proper authorization on the account or proper legal documentation
- Ask to speak to the member in private
- Notify a supervisor or manager immediately
- Gather as much evidence as possible to assist in any resulting investigation

Sometimes a member may wish to proceed with the transaction even though the credit union has expressed concern. Before completing the transaction the manager or assistant manager may wish to consult with a member of senior management. If a member is in immediate danger notify police or call Adult Protective Services (APS).

Notifying Risk Management

After careful consideration of a suspected financial abuse situation, the Branch/Department Manager or Assistant Manager must **immediately** make a report to the VP, Risk Management using the **Financial Elder Abuse Incident Report** (See **Exhibit A** - This form is available on the credit union internal website in the Forms section.) To expedite the process the report may be faxed to Risk Management. In all cases the incident report must be received by Risk Management within 24 hours of the suspect event or discovery of evidence of abuse. The report must include:

- Name, age (or estimated age), sex, ethnicity, address, and telephone number of the member
- Name, age (or estimated age), sex, ethnicity, address, relationship to member, and description of suspected abuser if known
- Description of suspicious circumstances (include supporting documentation)
- Branch location and name of employee who made referral

Responsibilities of Risk Management

The designated senior officer must make an **oral report** by telephone of suspicious activity immediately, or as soon as practicably possible, to Adult Protective Services. (In the event that the VP, Risk Management is not available to make the report to APS, the VP, Operations, or VP, Lending, or VP, Human Resources, or the Security & Controls Officer, or the Manager, Operations Support must make the report.)

Los Angeles County
Community and Senior Services
3333 Wilshire Blvd Suite 400
Los Angeles CA 90010
Hotline (877) 477-3646
Direct/Collect (626) 579-6935

The officer must then file a **written report** within 2 business days. The confidential **Report of Suspected Dependant/Elder Abuse** (SOC 341) may be obtained on the APS website at <http://dcss.co.la.ca.us/APS/APSMandatedtext.htm>. The credit union should be able to show that reports have been made upon reasonable suspicion, as described above under "How to spot financial elder abuse." It may also be necessary to file a Suspicious Activity Report (SAR).

Civil or Criminal Liability

The Act provides that a mandated reporter of known or suspected elder or dependant abuse shall not incur civil or criminal liability as a result of a report, unless it can be proven that a false report was made and the person knew it was false. However, failure to report shall be subject to a civil penalty of up to \$1,000. If the failure to report is willful, the penalty can range up to \$5,000. Penalties are paid by the employer of the individual who failed to report.

Confidentiality of Reported Information


The reports made to Adult Protective Services are strictly confidential. The names of the persons submitting the report and the individual(s) who originally found evidence of suspected abuse may be disclosed only by court order. Any violation of the confidentiality required by the Act is a misdemeanor punishable by not more than six (6) months in county jail, by a fine of five hundred dollars (\$500), or by both the fine and imprisonment.

Record Retention

Copies of the Financial Elder Abuse Incident Report, Report of Suspected Dependant/Elder Abuse, and all other documentation are retained in a binder in the Risk Management Department for a period of five (5) years.

REFER TO THE NEXT PAGE FOR EXHIBIT A

**Exhibit A
Financial Elder Abuse Incident Report**



FINANCIAL ELDER ABUSE INCIDENT REPORT

MEMBER INFORMATION					
NAME	AGE	ETHNICITY	SEX	ACCOUNT NUMBER	
			<input type="checkbox"/> M <input type="checkbox"/> F		
ADDRESS			TELEPHONE NUMBER		
CITY		STATE	ZIP		

SUSPECTED ABUSER INFORMATION (IF KNOWN)					
NAME	AGE	ETHNICITY	RELATIONSHIP TO MEMBER		
ADDRESS		SEX	HEIGHT	WEIGHT	EYES
		<input type="checkbox"/> M <input type="checkbox"/> F			HAIR
CITY		STATE	ZIP		

DESCRIPTION OF SUSPICIOUS CIRCUMSTANCES
CONTINUE ON REVERSE SIDE IF NECESSARY
ATTACH SUPPORTING DOCUMENTATION

MANAGER / ASST. MANAGER NAME & SIGNATURE	BRANCH / DEPT. LOCATION
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RISK MGMT ONLY:	DATE REC'D	REC'D BY	ACTION TAKEN <small>(USE REVERSE IF NECESSARY)</small>		
NAME OF APS CONTACT		DATE	TIME	TELEPHONE NUMBER	
				877-477-3646	

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