

Protecting Older and Vulnerable Persons
From Exploitation

Background

- **Protecting older and vulnerable persons from unfair financial practices is a growing concern.**
- **Abuse of older and vulnerable persons, particularly financial abuse, is rising dramatically and is often not addressed.**
- **Regulators, including FINRA, the SEC, and state securities and insurance regulators, are paying increasing attention to this issue.**

Defining Older Seniors and Vulnerable Persons

Regulators differ on specific definitions for elder and elder abuse, but generally you should consider:

- Older persons are individuals who are age 60+.
- Similar vigilance for financial abuse red flags should also be monitored for an individual age 18+ ***who has a mental or physical impairment that renders the individual unable to protect his or her own interests.***

What is Exploitation of an Older Person or Vulnerable Adult?

Exploitation of an older or vulnerable person is generally defined in statutes and regulations as:

Any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:

- Obtain control through deception, intimidation or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the person of the ownership, use, benefit or possession of their money, assets or property; or
- Convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the person of the ownership, use, benefit or possession of their money, assets or property.

Red Flags of Exploitation

Some potential red flags of suspicious conduct or financial exploitation are:

- **The client seems dazed, nervous or fearful, particularly when discussing financial matters**
- **The client does not remember having requested certain transactions or seems confused or concerned**
- **The client provides contradictory or questionable explanations for transactions**
- **There is a significant change in the client's financial habits (such as more frequent or larger withdrawals or activity)**
- **There is another individual such as a family member or caregiver insistently requesting information or attempting to make changes with respect to the client's assets without authorization**

Red Flags of Exploitation, continued

Additional potential red flags of financial exploitation are:

- **An alleged guardian or individual with alleged Power of Attorney (“POA”) for the client refuses to provide legal documentation of their authority**
- **There is more than one person claiming legal authority for the client**
- **A family member, POA/guardian or caregiver refuses to allow you to speak to the client, or only allows communication with them controlling the client’s responses**
- **There are questionable signatures on documents, or it appears that numbers have been forged or changed**
- **There are sudden or unexplained address changes or changes in beneficiaries**

Red Flags of Diminished Capacity

What are potential signs that someone is suffering from diminished capacity?

- **The client is unable to hold a prolonged conversation**
- **The client seems confused or disoriented**
- **The client seems depressed or unusually subdued**
- **The client is unable to keep up with current events (the name of the president, the day of the week, the date)**
- **When asked questions about financial information, the client shows memory gaps or confusion**

Escalation

What should you do if you suspect exploitation or diminished capacity?

- **If you are aware of any conduct or transactions that could indicate potential financial exploitation or diminished capacity, you should escalate your concerns to your manager, who should contact the appropriate staff in Law/Compliance.**
- **If you have concerns about exploitation, you should not process any transactions until you receive additional guidance.**

Possible Exploitation - Investigations

After you have referred a matter, what happens next?

Depending on the facts, Law/Compliance may take a variety of steps to investigate possible exploitation of older or vulnerable persons, such as:

- A formal investigation, including a detailed review of paperwork or legal documents associated with the case
- A review of all relevant transactions and communications
- Asking a producer to conduct an in-person visit with the client
- Direct follow-up with you, the client or his or her representative or trusted contact, and/or the producer
- Possible reporting of the matter to appropriate state or federal agencies or law enforcement

Final Thoughts

- **Protecting seniors and vulnerable persons from unfair financial practices is a growing concern.**
- **(Company) and its regulators are very concerned about protecting these individuals.**
- **Please use special care when working with seniors and vulnerable adults**
- **Trust your instinct and escalate any concerns to your manager or Law/Compliance**