

*Collaborating with Financial Institutions to
Prevent Elder Financial Exploitation and Abuse:*

A Guide for APS Investigators in California

*Prepared by the A*Team,
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About These Guidelines

Collaborating with Financial Institutions to Prevent Elder Financial Exploitation and Abuse: A Guide for APS Investigators in California is based on the *National Guidelines to Implement the 2013 Federal Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults* developed by NAPSA and the Philadelphia Corporation for Aging.

Statutes for the reporting, investigation, and prevention of elder financial abuse and exploitation appear in many sections of California's criminal and civil codes, including the Welfare & Institutions Code, the Penal Code, the Commercial Code, the Probate Code, Financial Code and Government Code. Federal laws may also apply. This practical guide provides abuse investigators and financial institutions with information about their authority, responsibilities, and liabilities. It further provides customizable documents for requesting and sharing information, establishing roles and responsibilities, and protecting the safety, property, and privacy of vulnerable and abused adults.

Customizable forms can be found on pages 6 through 8 of this document. Authorizing statutes are contained in the Appendix on page 9.

Background

Elder financial exploitation is a substantial and complex social, justice and health problem. According to recent research:

- 10%, or about 5 million older persons, are abused, neglected and/or exploited each year, many of them in multiple ways.¹
- The 2019 Consumer Financial Protection Bureau report, *Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends*, found that SAR filings on elder financial exploitation quadrupled between 2013 and 2017. One third of victims who lost money were over age 80, adults ages 70 to 79 had the highest average monetary loss, and losses were greater when the older adult knew the suspect.²
- Elder abuse increases the likelihood of early mortality. Of the five types of elder abuse (caregiver neglect, financial exploitation, physical abuse, emotional abuse and poly-victimization), elder financial exploitation ranked second highest in the link to early mortality, ahead of physical abuse.³
- In one study, almost one in ten financial exploitation victims had to turn to Medicaid as a direct result of their own monies being stolen.⁴
- A majority of victims of financial exploitation report high levels of anxiety, shame, and self-doubt that can lead to serious mental and physical health impacts.⁵

¹ Acierno, R. E. (2010). Prevalence and Correlates of Emotional, Physical, Sexual and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study. *American Journal of Public Health*, 100 (2): 292-297.

² Consumer Finance.gov. Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends. Accessed on 3/29/2019 at: https://files.consumerfinance.gov/f/documents/cfpb_suspicious-activity-reports-elder-financial-exploitation_report.pdf

³ Burnett J, Jackson SL, Sinha A, Aschenbrenner AR, Xia R, Murphy KP & Diamond PM. Differential Mortality across Five Types of Substantiated Elder Abuse. *Journal of Elder Abuse and Neglect*, 2016; 28:2, 59-75. 4 Gunther, J., The Utah Cost of Financial Exploitation. Utah Division of Aging and Adult Services. March, 2011.

⁴ Gunther, J., The Utah Cost of Financial Exploitation. Utah Division of Aging and Adult Services. March, 2011.

⁵ Ianzito, C. Many Victims Struggle With Mental Health in Scams' Aftermath. AARP. December 2022. <https://www.aarp.org/money/scams-fraud/info-2022/mental-health-impact.html>

- Only one in 44 elder financial exploitation case is ever reported.⁶
- Financial exploitation causes economic losses for Medicare, Medicaid, the financial services industry, caregivers, and families as well as older people themselves. It can and does lead to impoverishment, homelessness, increased use of publicly-funded services, and death. As older persons are the fastest growing population, elder abuse is expected to increase in the coming years.⁷
- Financial institutions working with investigators on financial exploitation cases are immune from liability under provisions of the Gramm-Leach Bliley Act* and The Senior Safe Act*, signed in 2018.

⁶ Lifespan of Greater Rochester, Weill Cornell Medical Center of Cornell University, New York City Department for the Aging. (2011). Under the Radar: New York State Elder Abuse Prevalence Study, Final Report. Lifespan of Greater Rochester, Inc.

⁷ Vincent, G. &. (2010). The Next Four Decades: The Older Population in the United States: 2010 to 2050. Washington DC: US Census Bureau.

Adult Protective Services

Adult Protective Services, or APS, is statutorily authorized under state and tribal law to receive and investigate reports of elder abuse, including financial exploitation, and to protect the victims. In California, APS serves all adults with significant disabilities age 18 and above; in a few states, any older person may be served based on advanced age alone (i.e., it is not necessary for a person over age 60 or 65 to have a disability); and in a few states APS serves older persons only.

APS' responsibilities include investigating the alleged abuse, determining if it is occurring, and working with the client to stop the abuse and to improve the victim's safety and well-being. APS conducts "authorized civil investigations" as mentioned in the privacy law exceptions in the Gramm-Leach-Bliley Act.

In order to carry out these responsibilities, *APS must have access to current, accurate information about the client's financial situation in order to adequately investigate the alleged financial exploitation and to mitigate the client's future risk.*

Financial Institutions

California is among the twelve states that specifically mandate financial institutions to report suspected elder abuse and exploitation to APS, and another fourteen require "all persons" to report, so bankers and other financial professionals must report in a total of twenty-six states. They may voluntarily report with immunity for good faith in all states.⁸

Financial institutions play an important role in preventing and intervening to stop financial exploitation. Banks and investment advisors are in a position to spot suspicious activities in an older person's account and financial institutions have a duty and a desire to protect their customers' assets. California law requires financial institutions to report suspected abuse to local APS or law enforcement. Financial Institutions fulfill their federal legal duty by filing a Suspicious Activity Report (SARS) with the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN). Partnering with APS creates a significant opportunity to prevent and reduce elder financial abuse while also protecting their customers' assets and funds on deposit.

***All relevant code sections are included in the Appendix on page 9.**

A sample records request form is posted below. Also included are two sample letters: the first can be used to introduce the form and APS to local banks, and the second can be used when financial institutions decline to comply with records requests.

⁸ Center for Excellence in Elder Law. Mandatory Reporting Statutes for Elder Abuse – 2016. Stetson University College of Law, <https://www.stetson.edu/law/academics/elder/home/media/Mandatory-reporting-Statutes-for-elder-abuse-2016.pdf>

Goals of the Guidelines

1. Clarify that a report of elder financial exploitation to APS by a financial institution necessitates that the institution also provides requested records promptly and completely; i.e., a report is incomplete without the needed records.
2. Promote standardization of practice by both financial institutions and APS in responding to, and cooperating on, financial exploitation cases.
3. Promote standardization of APS requests for client records from financial institutions through the creation and dissemination of a standard form to be used nationwide.
4. Promote knowledge of the federal guidance on reporting elder abuse and distribute these guidelines and the standard form to as many financial institutions as possible throughout the state.
5. Encourage the prompt submission of SARS on elder abuse cases.
6. Facilitate productive working relationships between APS and financial institutions.

Guidelines for APS

The state or local APS Program recognizes:

1. The responsibility to carry out thorough and timely investigations of reported elder abuse, neglect and exploitation and to intervene to protect the victims and their assets;
2. The benefits of using the standardized Request for Records form in order to promote consistency of practice and to increase financial institutions' understanding of the role and authority of APS;
3. The need to be courteous and respectful of the financial institutions' time constraints;
4. The desirability of forming positive working relationships with financial institutions' personnel and educating the financial services industry about APS and their roles and responsibilities.

Guidelines for Financial Institutions

The financial institution recognizes:

1. The serious problem of elder financial exploitation;
2. The importance of filing timely Suspicious Activity Reports (SARs);
3. The bank's responsibility and authority to promptly report suspected elder abuse, neglect and exploitation to APS or local law enforcement;
4. The need to provide as much detailed information as possible in the report, including informing APS of the bank branch and specific teller, etc. who raised the concerns;
5. APS' responsibility and authority to investigate reports of elder abuse, neglect and exploitation;
6. The GLBA exceptions which allow the sharing of records pursuant to an authorized civil investigation by a government authority and to prevent fraud;
7. The institution's responsibility to cooperate with APS in the investigation by providing the alleged victim's account records, as requested, in a timely and complete manner;
8. The need to acknowledge and respect time constraints affecting investigative agencies' ability to protect the alleged victim; and
9. The value of forming positive working relationships with APS personnel and appointing a liaison person to work with APS whenever feasible.

Insert your County logo here

OFFICIAL REQUEST FOR CUSTOMER RECORDS

Pursuant to Gramm-Leach-Bliley Act (GLBA)(15U.S.C.§6802(e)(8); and 15U.S.C. §6802(e)(3)(B)) and CA Financial Privacy Act (Financial Code) Sec. 4056 (3)(b) and 4056 (8):

I, _____, an Adult Protective Services Investigator operating under the laws of the State of California, am conducting an authorized investigation of alleged financial exploitation of an older person (vulnerable/dependent adult).

I hereby request records from _____ for all accounts relating to _____ for the period of _____ to _____, including but not limited to:

- Bank statements for ALL accounts, including checking, savings, money market, certificates of deposit
- Copies of all checks and withdrawals from the account(s) (front and back) including offsets
- Copies of all deposits and deposit items
- Customer Profile showing all accounts, including opening and/or closing dates All Power of Attorney documents and signature cards
- Statements for any loans, lines of credit, or credit cards and copies of any cash advances
- Name & contact information for trusted contact/POA (if any)
- Other:

Please provide these records on or before _____

Signature _____

Phone _____

Title _____

Email _____

Agency _____

Address _____

Other Agency ID (if applicable) _____

NOTE TO APS: This letter is to introduce the form to local banks. If you are sending the request to a national bank's central subpoena processing unit, just send the form without the letter.

Agency Letterhead Date

Bank Official's Name and Address Dear [Bank Officer]:

I would like to introduce myself and my agency, Adult Protective Services (APS) [full name and location – e.g., if regional office indicates that].

APS is a state [county/other] agency which is authorized under California Welfare & Institutions Code 15650(b) to carry out investigations of reported elder and vulnerable [dependent/at-risk] abuse, neglect and financial exploitation.

When investigating financial exploitation, it is often necessary for the investigator to review the client's bank records in a timely manner. Whenever possible, APS obtains the client's consent.

Even without client consent, however, APS is authorized under the federal Gramm- Leach-Bliley Act to obtain a bank customer's records, because APS falls under the law's exceptions in that:

- 1) the purpose of viewing the records is to prevent actual or potential fraud, and
- 2) *APS is authorized under state law to carry out civil investigations.*

Please see the attached standard form created for APS to request a client's bank records. On the reverse side is the Gramm-Leach-Bliley Act language setting forth the exceptions cited above, and also the California APS statutory language regarding APS' authority to conduct civil investigations of elder/vulnerable adult financial exploitation.

Upon receipt of this form from an APS investigator, we hope that your staff will promptly provide the requested records so that a full investigation can be conducted within the program's deadlines. This will help to stop the financial losses to the client and bank and will help APS take other measures to protect the client and their overall well-being.

We look forward to working with you and your staff to protect the assets and well-being of your customers who have been referred to APS for alleged financial abuse. If you have any questions or would like to discuss this further, please contact me at [].

Sincerely,

[Signature]

[Your name]

Supervisor [or other title]

NOTE TO APS: This letter is to reply to a bank which has refused to release records.

Agency letterhead

Date

Bank Official's Name and Address

RE: Denial of the attached APS Request for Client Records

Dear [Bank Officer]:

In response to your recent correspondence [phone call/etc.], please note that a careful reading of the Gramm-Leach-Bliley Act makes plain that financial institutions are indeed permitted to release client records without the client's permission and without a subpoena under the following conditions:

15 U.S.C. §6802 - Obligations with respect to disclosures of personal information

(c) *General exceptions*

Subsections (a) and (b) of this section shall not prohibit the disclosure of nonpublic personal information—

(3)(B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law (emphasis added).

Even without client consent, Adult Protective Services (APS) is authorized under these provisions to obtain a bank customer's records in the course of investigating financial abuse of an older or vulnerable adult, because APS falls under the law's exceptions in that:

1. Its purpose in viewing the records is to "*protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability*"; and
2. APS is authorized under state law to carry out civil investigations of elder/vulnerable [dependent, at-risk] adult abuse, neglect and financial exploitation [insert state statute citation and language from back of form].
3. The requirement for a subpoena is an alternative and not a requirement when complying with a properly authorized civil investigation, to wit: "*to comply with a properly authorized civil . . . investigation OR subpoena OR summons*" (emphasis added).

In light of the clear language in GLBA and APS's statutory authority to conduct a "properly authorized civil . . . investigation", please comply with the attached request for records in the timeframe specified.

Thank you. Working together we can better protect the assets and well-being of our mutual client.

Sincerely, [Signature] [Your name]

Supervisor [or other title]

Attach denied Request for Records form.

Gramm-Leach-Bliley Act

15U.S.C.§6802-Obligations with respect to disclosures of personal information

(f) General exceptions

Subsections (a) and (b) of this section shall not prohibit the disclosure of nonpublic personal information—

(3)(B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.

Senior Safe Act

[Title III, Sec. 303 of the Economic Growth, Regulatory Relief, and Consumer Protection Act](#), (2018) extends immunity from liability to certain individuals employed at financial

institutions who, in good faith and with reasonable care, disclose the suspected exploitation of a senior citizen to a regulatory or law-enforcement agency. Similarly, the employing financial institution shall not be liable with respect to disclosures made by such employees. The bill allows financial institutions and third-party entities to offer training related to the suspected financial exploitation of a senior citizen to specified employees. The bill provides guidance regarding the content, timing, and record-maintenance requirements of such training.⁹

<https://www.congress.gov/bill/115th-congress/senate-bill/2155>

Adult Protective Services (APS) is properly authorized under the California Elder Abuse & Civil Protection Act, cited below, to carry out civil investigations of elder/vulnerable adult abuse, neglect and financial exploitation.

California Welfare and Institutions Code

§ 15650. (a) Investigation of reports of known or suspected instances of abuse in long-term care facilities shall be the responsibility of the division¹⁰, the local law enforcement agency, and the long-term care ombudsman program.

(b) Investigations of known or suspected instances of abuse outside of long-term care facilities shall be the responsibility of the county adult protective services agency, unless another public agency is given responsibility for investigation in that jurisdiction, and the local law enforcement agency.

(c) The investigative responsibilities set forth in this section are in addition to, and not in derogation of or substitution for, the investigative and regulatory responsibilities of licensing agencies, such as the State Department of Social Services Community Care Licensing Division and the State Department of Public Health Licensing and Certification Division and their authorized representatives.

(d) Other public agencies involved in the investigation of abuse or advocacy of respective client populations, or both, include, but shall not be limited to, the State Department of State Hospitals and the State Department of Developmental Services.

⁹ Legislative Summary from Congress.Gov. <https://www.congress.gov/bill/115th-congress/senate-bill/2155>

¹⁰ "the division" refers to the county adult protective service agency

CA Financial Privacy Act

[Financial Code Sec. 4056](#)

(3) (b) Notwithstanding Sections 4052.5, 4053, 4054, and 4054.6, a financial institution may release nonpublic personal information under the following circumstances:

(B) Released to protect against or prevent actual or potential fraud, identity theft, unauthorized transactions, claims, or other liability.

(8) When a financial institution is reporting a known or suspected instance of elder or dependent adult financial abuse or is cooperating with a local adult protective services agency investigation of known or suspected elder or dependent adult financial abuse pursuant to Article 3 (commencing with Section 15630) of Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code.

Governmental Access to Financial Records

[Government Code Sec. 7470 and 7480](#)

Sec. 7470 (a) Except as provided in Section 7480, no officer, employee, or agent of a state or local agency or department thereof, in connection with a civil or criminal investigation of a customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings, may request or receive copies of, or the information contained in, the financial records of any customer from a financial institution unless the financial records are described with particularity and are consistent with the scope and requirements of the investigation giving rise to such request and:

(1) Such customer has authorized disclosure to such officer, employee or agent of such state or local agency or department thereof in accordance with Section 7473; or

(2) Such financial records are disclosed in response to an administrative subpoena or summons which meets the requirements of Section 7474; or

(3) Such financial records are disclosed in response to a search warrant which meets the requirements of Section 7475; or

(4) Such financial records are disclosed in response to a judicial subpoena or subpoena duces tecum which meets the requirements of Section 7476.

(b) Nothing in this section or in Sections 7473, 7474, 7475, and 7476 shall require a financial institution to inquire or determine that those seeking disclosure have duly complied with the requirements set forth therein, provided only that the customer authorization, administrative subpoena or summons, search warrant, or judicial subpoena or order served on or delivered to a financial institution pursuant to such sections shows compliance on its face.

(c) The financial institution shall maintain for a period of five years a record of all examinations or disclosures of the financial records of a customer pursuant to this chapter, including the identity of the person examining the financial records, the state or local agency or department thereof which he represents, and a copy of the customer authorization, subpoena, summons or search warrant providing for such examination or disclosure or a copy of the certification received pursuant to subdivision (b) of Section 7480. Any record maintained pursuant to this subdivision shall be available, within five days of request, during normal business hours for review by the customer at the office or branch where the customer's account was located when examined or disclosed. A copy of such record shall be furnished to the customer upon request and payment of the reasonable cost thereof.

(d) Except as provided in Section 7480, this section is not intended to preclude a state or local law enforcement agency from initiating contact with a financial institution if there is reason to believe that the institution is a victim of a crime. After such contact by a law enforcement agency, if the financial institution believes it is a victim of a crime, it may, in its discretion, disclose relevant financial records pursuant to subdivision (c) of Section 7471. (*Amended by*

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Stats. 1978, Ch. 1346.)

Government Code Sec. 7480

Nothing in this chapter shall prohibit any of the following:

- (a) The dissemination of any financial information that is not identified with, or identifiable as being derived from, the financial records of a particular customer.
- (b) When **any police, sheriff's department, district attorney, or special agent with the Department of Justice** in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association in this state, the police, sheriff's department, district attorney, special agent with the Department of Justice, or **a county adult protective services office when investigating the financial abuse of an elder or dependent adult, or a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult**, may request a bank, credit union, or savings association to furnish, and a bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified by the requesting party for a period 30 days before, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:
 - (1) The number of items dishonored.
 - (2) The number of items paid that created overdrafts.
 - (3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.
 - (4) The dates and amounts of deposits and debits and the account balance on these dates.
 - (5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.
 - (6) The date the account opened and, if applicable, the date the account closed.
 - (7) Surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine (ATM) or from within the financial institution for dates on which illegal acts involving the account were alleged to have occurred. Nothing in this paragraph does any of the following:
 - A. Requires a financial institution to produce a photograph or video recording if it does not possess the photograph or video recording.
 - B. Affects any existing civil immunities as provided in Section 47 of the Civil Code or any other provision of law.
 - C. A bank, credit union, or savings association that provides the requesting party with copies of one or more complete account statements prepared in the regular course of business shall be deemed to be in compliance with paragraphs (1), (2), (3), and (4).
- (c) When any police, sheriff's department, district attorney, or special agent with the Department of Justice in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association doing business in this state, the **police, sheriff's department, district attorney, special agent with the Department of Justice, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, or a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult**, may request, with the consent of the accountholder, the bank, credit union, or savings association to furnish, and the bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified

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by the requesting party for a period 30 days before, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:

- 1) The number of items dishonored.
- 2) The number of items paid that created overdrafts.
- 3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.
- 4) The dates and amounts of deposits and debits and the account balance on these dates.
- 5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.
- 6) The date the account opened and, if applicable, the date the account closed.
- 7) Surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine (ATM) or from within the financial institution for dates on which illegal acts involving this account were alleged to have occurred. Nothing in this paragraph does any of the following:
 - A. Requires a financial institution to produce a photograph or video recording if it does not possess the photograph or video recording.
 - B. Affects any existing civil immunities as provided in Section 47 of the Civil Code or any other provision of law.
- 8) A bank, credit union, or savings association doing business in this state that provides the requesting party with copies of one or more complete account statements prepared in the regular course of business shall be deemed to be in compliance with paragraphs (1), (2), (3), and (4).

(d) For purposes of subdivision (c), consent of the accountholder shall be satisfied if an accountholder provides to the financial institution and the person or entity seeking disclosure, a signed and dated statement containing all of the following:

- 1) Authorization of the disclosure for the period specified in subdivision (c).
- 2) The name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained.
- 3) A description of the financial records that are authorized to be disclosed.

(e) (1) The Attorney General, a supervisory agency, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller, or an inheritance tax referee when administering the Prohibition of Gift and Death Taxes (Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code), **a police or sheriff's department or district attorney, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult, a county welfare department when investigating welfare fraud, a county auditor-controller or director of finance when investigating fraud against the county, or the Department of Business Oversight when conducting investigations in connection with the enforcement of laws administered by the Commissioner of Business Oversight, from requesting of an office or branch of a financial institution, and the officer branch from responding to a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of the account or accounts.**

(2) No additional information beyond that specified in this section shall be released to a county welfare department without either the accountholder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.

Financial Institutions as Mandated Reporters

Welfare and Institutions Code Sec. [15630.1](#).

- (a) As used in this section, “mandated reporter of suspected financial abuse of an elder or dependent adult” means all officers and employees of financial institutions.
- (b) As used in this section, the term “financial institution” means any of the following:
- (1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).
 - (2) An institution-affiliated party, as defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).
 - (3) A federal credit union or state credit union, as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752), including, but not limited to, an institution-affiliated party of a credit union, as defined in Section 206(r) of the Federal Credit Union Act (12 U.S.C. Sec. 1786(r)).
- (c) As used in this section, “financial abuse” has the same meaning as in Section 15610.30.
- (d) (1) Any mandated reporter of suspected financial abuse of an elder or dependent adult who has direct contact with the elder or dependent adult or who reviews or approves the elder or dependent adult’s financial documents, records, or transactions, in connection with providing financial services with respect to an elder or dependent adult, and who, within the scope of his or her employment or professional practice, has observed or has knowledge of an incident, that is directly related to the transaction or matter that is within that scope of employment or professional practice, that reasonably appears to be financial abuse, or who reasonably suspects that abuse, based solely on the information before him or her at the time of reviewing or approving the document, record, or transaction in the case of mandated reporters who do not have direct contact with the elder or dependent adult, shall report the known or suspected instance of financial abuse by telephone or through a confidential Internet reporting tool, as authorized pursuant to Section 15658, immediately, or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days to the local adult protective services agency or the local law enforcement agency.
- (2) When two or more mandated reporters jointly have knowledge or reasonably suspect that financial abuse of an elder or a dependent adult for which the report is mandated has occurred, and when there is an agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the reporting team who is selected by mutual agreement. A single report may be made and signed by the selected member of the reporting team. Any member of the team who has knowledge that the member designated to report has failed to do so shall thereafter make that report.
- (3) If the mandated reporter knows that the elder or dependent adult resides in a long-term care facility, as defined in Section 15610.47, the report shall be made to the local ombudsman or local law enforcement agency.
- (e) An allegation by the elder or dependent adult, or any other person, that financial abuse has occurred is not sufficient to trigger the reporting requirement under this section if both of the following conditions are met:
- (1) The mandated reporter of suspected financial abuse of an elder or dependent adult is aware of no other corroborating or independent evidence of the alleged financial abuse of an elder or dependent adult. The mandated reporter of suspected financial abuse of an elder or dependent adult is not required to investigate any accusations.
 - (2) In the exercise of his or her professional judgment, the mandated reporter of suspected financial abuse of an elder or dependent adult reasonably believes that financial abuse of an elder or dependent adult did not occur.
- (f) Failure to report financial abuse under this section shall be subject to a civil penalty not

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exceeding one thousand dollars (\$1,000) or if the failure to report is willful, a civil penalty not exceeding five thousand dollars (\$5,000), which shall be paid by the financial institution that is the employer of the mandated reporter to the party bringing the action. Subdivision (h) of Section 15630 shall not apply to violations of this section.

(g) (1) The civil penalty provided for in subdivision (f) shall be recovered only in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel. No action shall be brought under this section by any person other than the Attorney General, district attorney, or county counsel. Multiple actions for the civil penalty may not be brought for the same violation.

(2) Nothing in the Financial Elder Abuse Reporting Act of 2005 shall be construed to limit, expand, or otherwise modify any civil liability or remedy that may exist under this or any other law.

Financial Institution Authority to Delay Transactions

Welfare and Institutions Code Sec. [15630.2](#)

(a) For purposes of this section, the following terms have the following definitions:

- (1) "Financial abuse" has the same meaning as in Section 15610.30.
- (2) "Broker-dealer" has the same meaning as in Section 25004 of the Corporations Code.
- (3) "Investment adviser" has the same meaning as in Section 25009 of the Corporations Code.
- (4) "**Mandated reporter of suspected financial abuse of an elder or dependent adult**" means a broker-dealer or an investment adviser.

(j) (1) **A mandated reporter of suspected financial abuse of an elder or dependent adult may temporarily delay a requested disbursement from, or a requested transaction involving, an account of an elder or dependent adult** or an account to which an elder or dependent adult is a beneficiary if the mandated reporter meets all of following conditions:

(A) They have a reasonable belief, after initiating an internal review of the requested disbursement or transaction and the suspected financial abuse, that the requested disbursement or transaction may result in the financial abuse of an elder or dependent adult.

(B) Immediately, but no later than two business days after the requested disbursement or transaction is delayed, they provide written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless a party is reasonably believed to have engaged in suspected financial abuse of the elder or dependent.

(C) Immediately, but no later than two business days after the requested disbursement or transaction is delayed, they notify the local county adult protective services agency, local law enforcement agency, and the Department of Business Oversight about the delay.

(D) They provide any updates relevant to the report to the local adult protective services agency, the local law enforcement agency, and the Department of Business Oversight.

(2) Any delay of a requested disbursement or transaction authorized by this subdivision shall expire upon either of the following, whichever is sooner:

(A) A determination by the mandated reporter that the requested disbursement or transaction will not result in financial abuse of the elder or dependent adult provided that the mandated reporter first consults with the local county adult protective services agency, local law enforcement agency, and the Department of Business Oversight, and receives no objection from those entities.

(B) Fifteen business days after the date on which the mandated reporter first delayed the requested disbursement or transaction, unless the adult protective services agency, local law enforcement agency, or the Department of Business Oversight requests that the mandated reporter extend the delay, in which case the delay shall expire no more than 25 business days after the date on which the mandated reporter first delayed the requested disbursement or

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transaction, unless sooner terminated by the adult protective services agency, local law enforcement agency, the Department of Business Oversight, or an order of a court of competent jurisdiction.

(3) A court of competent jurisdiction may enter an order extending the delay of the requested disbursement or transaction or may order other protective relief based on the petition of the adult protective services agency, the mandated reporter who initiated the delay, or any other interested party.

(4) A mandated reporter of suspected financial abuse of an elder or dependent adult shall not be civilly liable for any temporary disbursement delay or transaction made in good faith and with reasonable care on an account pursuant to this subdivision.

Financial Institutions' Right to Follow Up on Investigative Outcomes

Welfare and Institutions Code Sec. [15630.2](#)

(k) Notwithstanding any provision of law, a local adult protective services agency, a local law enforcement agency, and the Department of Business Oversight may disclose to a mandated reporter of suspected financial abuse of an elder or dependent adult or their employer, upon request, the general status or final disposition of any investigation that arose from a report made by that mandated reporter of suspected financial abuse of an elder or dependent adult pursuant to this section. *(Added by Stats. 2019, Ch. 272, Sec. 1. (SB 496) Effective January 1, 2020.)*