



FOR IMMEDIATE RELEASE
Tuesday, Feb. 2, 2016

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Seniors and Vulnerable Adults Gain Protection through National Act

NASHVILLE –The North American Securities Administrators Association (NASAA) has adopted a model act designed to protect adults 65 or older, and other populations at increased risk of diminished capacity or other cognitive impairment, from financial exploitation.

The Tennessee Department of Commerce & Insurance’s (TDCI) Securities Division is a member of the NASAA.

The model, known as an “Act to Protect Vulnerable Adults from Financial Exploitation,” was developed by a special NASAA committee established to tackle a wide range of challenges confronting senior investors, regulators, and securities industry professionals. The model is designed to be enacted by state governments as legislation or implemented through regulation.

“This model provides new tools and authorities to help detect and prevent financial exploitation of seniors and adults with diminished capacity,” TDCI Assistant Commissioner for Securities Frank Borger-Gilligan said. “The model will make it easier for securities regulators, investment advisers and brokers-dealers, as well as Adult Protective Services agencies, to work in partnership to protect our most vulnerable citizens.”

Specifically, the model act:

- Mandates reporting to the state securities regulator and state adult protective services agency when a qualified individual such as a securities broker or investment adviser has a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred.
- Enables broker-dealers or investment advisers to impose an initial delay of disbursements from an account of an eligible adult for up to 15 business days if

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financial exploitation is suspected. The delay can be extended for an additional 10 days at the request of either the state securities regulator or adult protective services.

- Provides immunity from administrative or civil liability for broker-dealers and investment advisers for taking actions including delaying disbursements as permitted under the act.
- Requires qualified individuals such as securities brokers or investment advisers to provide records that are relevant to the suspected or attempted financial exploitation to government authorities.
- Authorizes notification to third parties only in instances where an eligible adult has previously designated the third party to whom the disclosure may be made. Importantly, the model act directs that disclosure may not be made to the third party if the qualified individual suspects the third part of the financial exploitation.

The model act applies to adults age 65 and older and individuals who qualify for protection under a state adult protective services statute. The model act defines “qualified individual” as broker-dealer agents; investment adviser representatives; those who serve in a supervisory, compliance, or legal capacity for broker-dealers and investment advisers; and any independent contractors that may be fulfilling any of those roles.

The full text of the model act, along with background information is available in the Policymakers section of NASAA’s Serve Our Seniors website at <http://serveourseniors.org>.

For more information about the Tennessee Securities Division, call 1-800-863-9117 or visit <http://tn.gov/commerce/section/securities>.

About the Tennessee Department of Commerce & Insurance: TDCI is charged with protecting the interests of consumers while providing fair, efficient oversight and a level field of competition for a broad array of industries and professionals doing business in Tennessee. Our divisions include the Athletic Commission, Consumer Affairs, Tennessee Corrections Institute, Emergency Communications Board, Fire Prevention, Insurance, Tennessee Law Enforcement Training Academy, Peace Officers Standards and Training, Regulatory Boards, Securities, and TennCare Oversight.

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