



SENIOR SAFE ACT FACT SHEET

May 23, 2019

Introduction

The Senior Safe Act became federal law on May 24, 2018.¹ The Senior Safe Act does not mandate any action by financial institutions and regulators. However, for financial institutions and certain eligible employees (discussed below), affiliated persons, and associated persons (“eligible employees”), who satisfy its requirements, the Senior Safe Act provides immunity from liability in any civil or administrative proceeding for reporting potential exploitation of a senior citizen. As an example, this immunity can be helpful when a firm wants to report potential exploitation but fears that the report could violate a privacy requirement. This Fact Sheet provides general information regarding the Senior Safe Act with the goal of educating financial institutions and employees about the benefits of the Act.²

What is the Senior Safe Act?

The Senior Safe Act protects “covered financial institutions”³ – which include investment advisers, broker-dealers, and transfer agents – and their eligible employees, from liability in any civil or administrative proceeding in instances where those employees make a report about the potential exploitation of a senior citizen (defined as not younger than 65 years) to a covered agency.⁴ The immunity established by the Senior Safe Act is provided on the condition that (1) certain employees (discussed below) receive training on how to identify and report exploitative activity against seniors before making a report, and (2) reports of suspected exploitation are made “in good faith” and “with reasonable care.” This immunity applies to eligible employees and firms, but the requirements differ slightly, as discussed below.

The inspiration for the Senior Safe Act was Maine’s SeniorSafe training program, an initiative launched in 2014 by the Maine Council on Elder Abuse Prevention that is designed to train financial professionals to detect and report cases of suspected senior financial abuse.

¹ The Senior Safe Act, which was included as Section 303 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, was signed into law on May 24, 2018.

² This document should not be construed as providing legal advice.

³ The Senior Safe Act defines the term “covered financial institution” as credit unions, depository institutions, investment advisers, broker-dealers, insurance companies, insurance agencies, and transfer agents.

⁴ The Senior Safe Act defines the term “covered agency” to include a state financial regulatory authority (including a state securities regulator or law enforcement authority and a state insurance regulator); a state or local adult protective services agency; the SEC; an SEC-registered national securities association (e.g., FINRA); a federal law enforcement agency; or any Federal agency represented in the membership of the Financial Institutions Examination Council.

What types of employees are eligible for immunity under the Senior Safe Act?

1. An employee who serves as a supervisor or in a compliance or legal function (including as a Bank Secrecy Act officer), for a covered financial institution; OR
2. A registered representative, investment adviser representative, or insurance producer affiliated or associated with a covered financial institution.

What types of employees must be trained to receive the immunity provided by the Senior Safe Act?

The Senior Safe Act does not mandate that any employees be trained. However, to qualify for the immunity provided by the law, training must be provided to and completed by the employees who are eligible for immunity (see above) and those employees who may come into contact with a senior citizen as a regular part of their professional duties or may review or approve the financial documents, records, or transactions of a senior citizen in connection with providing financial services to a senior citizen.

What are the training requirements under the Senior Safe Act?

The Senior Safe Act provides that, to receive the immunity provided by the Act, the training must: (1) instruct any individual attending the training on how to identify and report the suspected exploitation of a senior citizen internally and, as appropriate, to government officials or law enforcement authorities, including common signs that indicate the financial exploitation of a senior citizen; (2) discuss the need to protect the privacy and respect the integrity of each individual customer of the covered financial institution; and (3) be appropriate to the job responsibilities of the individual attending the training.

How soon must employees be trained to receive the immunity provided by the Senior Safe Act?

For current employees, affiliated persons, and associated persons, as soon as reasonably practical. New employees or persons who become affiliated or associated with a covered financial institution have no later than one year from the date of hire, affiliation, or association to complete the training.

What records of training must be maintained?

Records of employees who completed the training and the content of the training must be maintained by the covered financial institution and made available to a covered agency with examination authority over the covered financial institution, upon request, except that a covered financial institution shall not be required to maintain or make available such content with respect to any individual who is no longer employed by or affiliated or associated with the covered financial institution.

How do the requirements for “individual immunity” and “institutional immunity” differ?

An eligible employee who has received the training and makes a disclosure to a covered agency in good faith and with reasonable care receives individual immunity pursuant to the Senior Safe Act. A covered financial institution also receives institutional immunity when an eligible employee makes a disclosure to a covered agency and all employees have received training to the extent necessary to qualify for immunity under the Senior Safe Act.

Does the immunity provided by the Senior Safe Act allow for contacting third parties?

No, the qualified immunity established by the Senior Safe Act applies only to disclosures made by a covered financial institution or an employee of such institution to a “covered agency,” not a third party.

Where can I find additional information?

NASAA Resources:

Serve Our Seniors website (<http://serveourseniors.org>)

SEC Resources:

SEC Seniors webpage (<https://www.investor.gov/seniors>)

FINRA Resources:

FINRA’s Senior Investors webpage (<https://www.finra.org/industry/senior-investors>)

Regulatory Notice 17-11, SEC Approves Rules Relating to Financial Exploitation of Seniors (March 2017) (<https://www.finra.org/industry/notices/17-11>)

FINRA Securities Helpline for Seniors: 844-57-HELPS (844-574-3577)

FINRA Securities Helpline for Seniors webpage (<http://www.finra.org/investors/highlights/finra-securities-helpline-seniors>)

Report on the FINRA Securities Helpline for Seniors (December 2015) (<http://www.finra.org/newsroom/2015/finra-releases-report-its-securities-helpline-seniors>)

Protecting Seniors From Financial Exploitation (April 25, 2018) (<http://www.finra.org/investors/highlights/protecting-seniors-financial-exploitation>)

FINRA Investor Alerts (<http://www.finra.org/investors/alerts>)