CONFERENCE OF STATE BANK SUPERVISORS

CSBS Issue Briefing
Elder Abuse and State Law

BACKGROUND: On September 24, 2013, the federal banking agencies, Commodities Futures Trading Commission, Federal Trade Commissioner, and Securities and Exchange Commission issued guidance on reporting elder abuse. The guidance focuses on the applicability of the privacy provisions of the Gramm-Leach-Bliley Act, confirming that reporting suspected elder financial abuse to the appropriate authorities does not violate the Act. The guidance is available here.

STATE PERSPECTIVE: Elder abuse is an increasingly growing area of the law that covers a wide range of specialties, including financial abuse. States respond to financial abuse by implementing laws that criminalize financial abuse of the elderly,[1] granting civil relief to a victim,[2] and/or creating offices within state government dedicated to protecting seniors.[3]

Protecting the elderly from abuse happens on a local or state level. This nexus has made state elderly abuse protections an important tool, which is manifested in several crucial manners:

1. Most states have civil and criminal laws in place that aim to protect the elderly from abuse. Working within the state structure is quick and creates results.
2. The areas of law that are most relevant to the elderly (e.g. insurance, healthcare, guardianship) are handled on the State level. Many states have adult protective services, social services, and/or ombudsman to help elders with issues in these and other important areas.
3. Protection from abuse happens when family, friends, caretakers, and others near the vulnerable are aware of and responsive to potential abuse. A local community bank branch manager who speaks with a vulnerable person once a week is in a position to become aware of abuse through the relationship developed with the customer.
4. Financial abuse is often committed by family members or agents who have access to the accounts of an older customer. The financial institution that notices suspicious activity and reports it is protecting a vulnerable person who otherwise may go unprotected.

Considering these factors, working within the state system continues to be an important factor in preventing elder abuse. State governments, agencies, and the communities they serve are

[1] *See* Cal. Penal Code §§368(d)-(e). States also protect the elderly through statutes that seemingly are not related to elder law. For example, in Illinois, committing home repair fraud against an elderly person raises the felony a class higher. *See* 815 ILCS 515/5.
[2] *See* ORS 124.100 & 124.110.
[3] *See, e.g.* Ohio Department of Aging.

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well poised to observe elder financial abuse and should continue to utilize the tools provided to them under state law.

AUTHORITIES TO CONTACT IN THE EVENT OF SUSPECTED ELDER FINANCIAL ABUSE

The following is a list of authorities that may be appropriate to contact in the event of suspected elder abuse.

- Law Enforcement
    - Local
    - County
    - State
- Judicial System
- Adult Protective Services
- Social Services
- Long-Term Care Ombudsman
- Health Care System