

# Fighting Elder Financial Exploitation

## SB 311 (Oct 1, 2019) allows the credit union:

more **time** for investigation;  
**delay** of transactions;  
ability to **communicate** with family members; and  
**immunity** in reporting (for the CU and the employee).

## Third Party Notification

- Credit unions now have the option to "*notify any third party reasonably associated with an older person*" if the credit union believes that financial exploitation is occurring, has or may have occurred, is being attempted, or has been or may have been attempted.
- This is a much-needed tool in many situations where you know other family members and are concerned about reaching out to them due to financial privacy.

## Third Party

Includes, but is not limited, to:

- a parent, spouse, adult child, sibling, or other known family member or close associate;
- an authorized contact provided by an older person to the financial institution;
- a co-owner, add'l authorized signer, or beneficiary of an older person's account; and
- a POA, trustee, conservator, guardian, or other fiduciary who has been selected by the older person, a court, a governmental agency, or a third party to manage some or all of the financial affairs of the older person.

## Delaying Transactions

Your credit union may, *but is not required to*, delay completion or execution of a transaction involving an account of an older person if either of the following conditions apply:

- your credit union reasonably believes that the requested transaction may result in financial exploitation of an older person; or
- an agency (i.e. Adult Protective Services) provides information demonstrating to your credit union that it is reasonable to believe that financial exploitation is occurring, has or may have occurred, is being attempted, or has been or may have been attempted.

## Eligible Transactions

A "transaction" may include:

- an account transfer request;
- a request to initiate a wire transfer or ACH transaction;
- purchase of a money order, cashier's check, or official check;
- a request to negotiate a check;
- a request to change the ownership of, or access to, an account;
- a request for loan, extension of credit, or draw on a line of credit; and
- a request to designate or change the designation of beneficiaries.

## Delay Timeframes

- May be delayed for up to **15 business days**, unless the credit union determines earlier that the transaction will not result in financial exploitation.
- Delay may be extended to **25 business days** (from the date of original delay) if a request from a covered agency (i.e. APS) is received.
- A court order may also extend or shorten a delay.

Absent a court order, credit union is *not required* to delay a transaction at the request of an agency and may use its discretion to determine whether to delay a transaction based on available information.

## Notice of Delay

- **Written notice** must be sent no later than two business days after the transaction is delayed.
- The notice must include the reason for the delay and be sent to "all parties authorized to transact business on the account for which the financial institution has contact information"... unless a party is believed to have engaged in attempted financial exploitation of the older person
- *Suggest keeping short and asking for contact to discuss situation with account*

## Reporting

**Internal** – who do you report to and how?

### Adult Protective Services

Online reporting <https://montanaaps.com//intake/newpublicintakereport.aspx>

Call (844) 277-9300 (Monday – Friday 8am – 5pm)

## Reporting Immunity

Montana does not have mandatory reporting for financial institutions

SB 311 provides:

- “no duty to act”
- “are immune from criminal, civil and administrative liability for not taking action”
- persons “who choose to act... are immune from all criminal, civil, and administrative liability for any act taken”
- “unless ... was done in bad faith and caused loss”

## Training

- At least annually, appropriate employees of the credit union should be notified of their ability to report potential financial exploitation of an older person
- Protocol encouraged!
- Don't forget SAR filing

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**Montana's Credit Unions**

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