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115TH CONGRESS
1ST SESSION

# H. R. 3758

To provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2017

Ms. SINEMA (for herself and Mr. POLIQUIN) introduced the following bill; which was referred to the Committee on Financial Services

# A BILL

To provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Senior Safe Act of 2017".

**SEC. 2. IMMUNITY.**

(a) DEFINITIONS.—In this Act—

(1) the term "Bank Secrecy Act officer" means an individual responsible for ensuring compliance with the requirements mandated by subchapter II of

chapter 53 of title 31, United States Code (commonly known as the ''Bank Secrecy Act'');

(2) the term ''broker-dealer'' means a broker and a dealer, as those terms are defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

(3) the term ''covered agency'' means—

(A) a State financial regulatory agency, including a State securities or law enforcement authority and a State insurance regulator;

(B) each of the entities represented in the membership of the Federal Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303);

(C) the Securities and Exchange Commission;

(D) a securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3);

(E) a law enforcement agency; and

(F) a State or local agency responsible for administering adult protective service laws;

(4) the term ‘‘covered financial institution’’ means—

(A) a credit union;

(B) a depository institution;

(C) an investment adviser;

(D) a broker-dealer;

(E) an insurance company;

(F) an insurance agency; and

(G) a transfer agent;

(5) the term ‘‘credit union’’ has the meaning given the term in section 2 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301);

(6) the term ‘‘depository institution’’ has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(7) the term ‘‘exploitation’’ means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or a fiduciary, that—

(A) uses the resources of a senior citizen for monetary or personal benefit, profit, or gain; or

(B) results in depriving a senior citizen of rightful access to or use of benefits, resources, belongings, or assets;

(8) the term ''insurance agency'' means any business entity that sells, solicits, or negotiates insurance coverage;

(9) the term ''insurance company'' has the meaning given the term in section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a));

(10) the term ''insurance producer'' means an individual who is required under State law to be licensed in order to sell, solicit, or negotiate insurance coverage;

(11) the term ''investment adviser'' has the meaning given the term in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a));

(12) the term ''investment adviser representative'' means an individual who—

(A) is employed by or associated with an investment adviser; and

(B) does not perform solely clerical or ministerial acts;

(13) the term ''registered representative'' means an individual who represents a broker-dealer

in effecting or attempting to effect a purchase or sale of securities;

(14) the term ''senior citizen'' means an individual who is not younger than 65 years of age;

(15) the term ''State'' means each of the several States, the District of Columbia, and any territory or possession of the United States;

(16) the term ''State insurance regulator'' has the meaning given the term in section 315 of the Gramm-Leach-Bliley Act (15 U.S.C. 6735);

(17) the term ''State securities or law enforcement authority'' has the meaning given the term in section 24(f)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78x(f)(4)); and

(18) the term ''transfer agent'' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(b) IMMUNITY FROM SUIT.—

(1) IMMUNITY FOR INDIVIDUALS.—An individual who has received the training described in section 3 shall not be liable, including in any civil or administrative proceeding, for disclosing the suspected exploitation of a senior citizen to a covered agency if the individual, at the time of the disclosure—

(A) served as a supervisor or compliance officer (including as a Bank Secrecy Act officer) for, or, in the case of a registered representative, investment adviser representative, or insurance producer, was affiliated or associated with, a covered financial institution; and

(B) made the disclosure—

(i) in good faith; and

(ii) with reasonable care.

(2) IMMUNITY FOR COVERED FINANCIAL INSTITUTIONS.—A covered financial institution shall not be liable, including in any civil or administrative proceeding, for a disclosure made by an individual described in paragraph (1) if—

(A) the individual was employed by, or, in the case of a registered representative, insurance producer, or investment adviser representative, affiliated or associated with, the covered financial institution at the time of the disclosure; and

(B) before the time of the disclosure, each individual described in section 3(a) received the training described in section 3.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed to limit the

liability of an individual or a covered financial institution in a civil action for any act, omission, or fraud that is not a disclosure described in paragraph (1).

**SEC. 3. TRAINING.**

(a) IN GENERAL.—A covered financial institution or a third party selected by a covered financial institution may provide the training described in subsection (b)(1) to each officer or employee of, or registered representative, insurance producer, or investment adviser representative affiliated or associated with, the covered financial institution who—

(1) is described in section 2(b)(1)(A);

(2) may come into contact with a senior citizen as a regular part of the professional duties of the individual; or

(3) may review or approve the financial documents, records, or transactions of a senior citizen in connection with providing financial services to a senior citizen.

(b) CONTENT.—

(1) IN GENERAL.—The content of the training that a covered financial institution or a third party selected by the covered financial institution may provide under subsection (a) shall—

(A) 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;

(B) 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;

(C) discuss the need to protect the privacy and respect the integrity of each individual customer of the covered financial institution; and

(D) be appropriate to the job responsibilities of the individual attending the training.

(2) TIMING.—The training under subsection (a) shall be provided—

(A) as soon as reasonably practicable; and

(B) with respect to an individual who begins employment with or becomes affiliated or associated with a covered financial institution after the date of enactment of this Act, not later than 1 year after the individual becomes employed by or affiliated or associated with the covered financial institution in a position described in paragraph (1), (2), or (3) of subsection (a).

(3) RECORDS.—A covered financial institution shall—

(A) maintain a record of each individual who—

(i) is employed by or affiliated or associated with the covered financial institution in a position described in paragraph (1), (2), or (3) of subsection (a); and

(ii) has completed the training under subsection (a), regardless of whether the training was—

(I) provided by the covered financial institution or a third party selected by the covered financial institution;

(II) completed before the individual was employed by or affiliated or associated with the covered financial institution; and

(III) completed before, on, or after the date of enactment of this Act; and

(B) upon request, provide a record described in subparagraph (A) to a covered agency with examination authority over the covered financial institution.

**SEC. 4. RELATIONSHIP TO STATE LAW.**

Nothing in this Act shall be construed to preempt or limit any provision of State law, except only to the extent that section 2 provides a greater level of protection against liability to an individual described in section 2(b)(1) or to a covered financial institution described in section 2(b)(2) than is provided under State law.

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