CHAPTER 85--S.F.No. 2466

An act relating to financial institutions; modifying provisions governing financial exploitation protections for vulnerable adults; amending Minnesota Statutes 2018, sections 45A.01, by adding a subdivision; 45A.02; 45A.03; 45A.04; 45A.05; 45A.06; 45A.07.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, section 45A.01, is amended by adding a subdivision to read:

Subd. 6a. **Financial services provider.** "Financial services provider" means (1) a bank, bank and trust, trust company with banking powers, savings bank, savings association, or credit union organized under the laws of Minnesota, any other state, or the United States; (2) an industrial loan and thrift under chapter 53; or (3) a regulated lender under chapter 56.

Sec. 2. Minnesota Statutes 2018, section 45A.02, is amended to read:

45A.02 GOVERNMENTAL DISCLOSURES.

(a) If a broker-dealer or investment adviser reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser may promptly notify the commissioner and the common entry point.

(b) If a financial services provider reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the financial services provider may promptly notify the common entry point.

Sec. 3. Minnesota Statutes 2018, section 45A.03, is amended to read:

45A.03 IMMUNITY FOR GOVERNMENTAL DISCLOSURES.

(a) A broker-dealer or investment adviser who, in good faith, makes a disclosure of information pursuant to section 45A.02, paragraph (a), cooperates with a civil or criminal investigation of financial exploitation of an eligible adult, or testifies about alleged financial exploitation of an eligible adult in a judicial or administrative proceeding is immune from administrative ~~or civil~~, civil, or criminal liability that might otherwise arise from the disclosure or testimony or for failure to notify the customer of the disclosure or testimony.

(b) A financial services provider or an employee of a financial services provider who, in good faith, makes a disclosure of information pursuant to section 45A.02, paragraph (b), cooperates with a civil or criminal investigation of financial exploitation of an eligible adult, or testifies about alleged financial exploitation of an eligible adult in a judicial or administrative proceeding is immune from administrative, civil, or criminal liability that might otherwise arise from the disclosure or testimony or for failure to notify the customer of the disclosure or testimony.

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Sec. 4. Minnesota Statutes 2018, section 45A.04, is amended to read:

45A.04 THIRD-PARTY DISCLOSURES.

If a broker-dealer ~~or~~, investment adviser, or financial services provider reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, a broker-dealer ~~or~~, investment adviser, or financial services provider may notify a third party reasonably associated with the eligible adult or any other person permitted under state or federal law or rule, rules of a self-regulating organization, or customer agreement. Disclosure may not be made to a third party that is suspected of financial exploitation or other abuse of the eligible adult.

Sec. 5. Minnesota Statutes 2018, section 45A.05, is amended to read:

45A.05 IMMUNITY FOR THIRD-PARTY DISCLOSURES.

(a) A broker-dealer or investment adviser who, in good faith, complies with section 45A.04 is immune from administrative ~~or civil~~, civil, or criminal liability that might otherwise arise from the disclosure.

(b) A financial services provider or an employee of a financial services provider who, in good faith, complies with section 45A.04 is immune from administrative, civil, or criminal liability that might otherwise arise from the disclosure.

Sec. 6. Minnesota Statutes 2018, section 45A.06, is amended to read:

45A.06 DELAYING DISBURSEMENTS.

Subdivision 1. **Broker-dealers and investment advisors.** (a) A broker-dealer or investment adviser shall delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if the commissioner of commerce, law enforcement agency, or prosecuting attorney's office provides information to the broker-dealer or investment adviser demonstrating that it is reasonable to believe that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted. A broker-dealer or investment adviser may, but is not required to, delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) the broker-dealer or investment adviser reasonably believes, after initiating an internal review of the requested disbursement or transaction and the suspected financial exploitation, that the requested disbursement or transaction may result in financial exploitation of an eligible adult; and

(2) the broker-dealer or investment adviser:

(i) immediately, but in no event more than two business days after the delayed disbursement or transaction, provides written notification of the delay or hold and the reason for the delay or hold to all parties authorized to transact business on the account, unless the party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) immediately, but in no event more than two business days after the delayed disbursement or transaction, notifies the commissioner and the common entry point; and

(iii) provides documentation and updates of any internal review conducted by the broker-dealer or investment adviser upon request of the commissioner, lead investigative agency, law enforcement agency, or prosecuting attorney's office.

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(b) A delay of a disbursement or hold on a transaction as authorized by this section expires upon the sooner of:

(1) the broker-dealer or investment adviser reasonably believes that the disbursement or transaction will not result in financial exploitation of the eligible adult if the broker-dealer or investment adviser initiated the delay of disbursement or hold on the transaction;

(2) a determination by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office that the disbursement or transaction will not result in financial exploitation of the eligible adult; or

(3) 15 business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds or held the transaction, unless the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office requests that the broker-dealer or investment adviser extends the delay or hold, in which case the delay or hold expires no more than 25 business days after the date on which the broker-dealer or investment adviser first delayed disbursement or placed the hold on the transaction.

(c) An eligible adult or other interested person as defined in section 524.5-102 may appeal to the commissioner for the termination of the delay of the disbursement of funds or hold on the transaction. A broker-dealer or investment adviser must notify the eligible adult or interested person of the right to appeal. The commissioner shall issue a decision within five business days of receiving the appeal. A decision of the commissioner may be reviewed consistent with the contested case proceeding procedure provided in chapter 14.

(d) Provided that a broker-dealer's or investment adviser's internal review of the suspected or attempted financial exploitation of the eligible adult supports the broker-dealer's or investment adviser's reasonable belief that financial exploitation of the eligible adult has occurred, has been attempted, or is being attempted, the temporary delay or hold may be extended by the broker-dealer or investment adviser for no longer than ten business days following the date authorized by paragraph (b), clause (3), unless otherwise terminated or extended by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office or an order of a court.

Subd. 2. **Financial services providers.** (a) A financial services provider shall delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if the commissioner of commerce, law enforcement agency, or prosecuting attorney's office provides information to the financial services provider demonstrating that it is reasonable to believe that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted. A financial services provider may, but is not required to, delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) the financial services provider reasonably believes, after initiating an internal review of the requested disbursement or transaction and the suspected financial exploitation, that the requested disbursement or transaction may result in financial exploitation of an eligible adult; and

(2) the financial services provider:

(i) immediately, but in no event more than two business days after the delayed disbursement or transaction, provides written notification of the delay or hold and the reason for the delay or hold to all parties authorized

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to transact business on the account, unless the party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) immediately, but in no event more than two business days after the delayed or held disbursement or transaction, notifies the common entry point and may notify the commissioner; and

(iii) provides documentation and updates of any internal review conducted by the financial services provider upon request of the commissioner, lead investigative agency, law enforcement agency, or prosecuting attorney's office.

(b) A delay of a disbursement or hold on a transaction as authorized by this section expires upon the sooner of:

(1) the financial services provider reasonably believes that the disbursement or transaction will not result in financial exploitation of the eligible adult if the financial services provider initiated the delay of disbursement or hold on the transaction;

(2) a determination by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office that the disbursement or transaction will not result in financial exploitation of the eligible adult; or

(3) 15 business days after the date on which the financial services provider first delayed disbursement of the funds or held the transaction, unless the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office requests that the financial services provider extends the delay or hold, in which case the delay or hold expires no more than 25 business days after the date on which the financial services provider first delayed disbursement or placed the hold on the transaction.

(c) An eligible adult or other interested person as defined in section 524.5-102 may appeal to the commissioner for the termination of the delay of the disbursement of funds or hold on the transaction. A financial services provider must notify the eligible adult or interested person of the right to appeal. The commissioner shall issue a decision within five business days of receiving the appeal. A decision of the commissioner may be reviewed consistent with the contested case proceeding procedure provided in chapter 14.

(d) Provided that a financial services provider's internal review of the suspected or attempted financial exploitation of the eligible adult supports the financial services provider's reasonable belief that financial exploitation of the eligible adult has occurred, has been attempted, or is being attempted, the temporary delay or hold may be extended by financial services provider for no longer than ten business days following the date authorized by paragraph (b), clause (3), unless otherwise terminated or extended by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office or an order of a court.

Sec. 7. Minnesota Statutes 2018, section 45A.07, is amended to read:

45A.07 IMMUNITY FOR DELAYING DISBURSEMENTS.

(a) A broker-dealer or investment adviser that, in good faith, complies with section 45A.06, subdivision 1, or the commissioner of commerce, law enforcement agency, or prosecuting attorney's office is immune from administrative ~~or civil~~, civil, or criminal liability that might otherwise arise from the delay in a disbursement or placing a hold on a transaction in accordance with this chapter.

(b) A financial services provider, or an employee of a financial services provider, that, in good faith, complies with section 45A.06, subdivision 2, or the commissioner of commerce, law enforcement agency,

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or prosecuting attorney's office is immune from administrative, civil, or criminal liability that might otherwise arise from the delay of a disbursement or placing a hold on a transaction in accordance with this chapter.

(c) A party that, in good faith and in compliance with section 45A.06, delays or places a hold on a disbursement or transaction directed by an attorney-in-fact shall not be deemed to have refused to accept the authority of the attorney-in-fact for purposes of section 523.20.

Presented to the governor May 14, 2020

Signed by the governor May 16, 2020, 11:07 a.m.

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