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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**Contact:** Tom Koss, Staff Attorney

**2021 Assembly Bill 45**

**Assembly  
Amendment 1**

### 2021 ASSEMBLY BILL 45

In cases of suspected financial exploitation of a vulnerable adult, 2021 Assembly Bill 45 allows certain professionals in the securities industry to notify certain persons or delay a transaction on or disbursement from the account of a vulnerable adult. A vulnerable adult is defined as an individual who is 60 years of age or older or an adult-at-risk.<sup>1</sup>

If a qualified individual<sup>2</sup> reasonably suspects that financial exploitation of a vulnerable adult may have occurred or been attempted, the bill allows the qualified individual to notify certain individuals and agencies, such as the Division of Securities of the Department of Financial Institutions, a law enforcement agency, or a person on a list of authorized contacts created by the adult. Under the same circumstances, a broker-dealer or investment adviser may refuse or delay a transaction for a certain period of time, as long as notification procedures are followed.

The bill also provides immunity from liability for providing notice of or delaying a transaction or disbursement, as long as the actions are done in good faith and while exercising reasonable care, and extends penalty enhancers under the Wisconsin Uniform Securities Law to violations committed against vulnerable adults.

### ASSEMBLY AMENDMENT 1

Assembly Amendment 1 provides that qualified individuals may refuse to accept an acknowledged power of attorney (POA). Under current law, a person may, in good faith, refuse to accept an acknowledged POA within 10 days of it being presented if, among other circumstances, the person makes or knows that another has made a report to a designated agency stating a good faith belief that the principal may be subject to financial exploitation by the agent. Under Assembly Amendment 1, qualified individuals may refuse to accept a POA if all of the following circumstances apply:

- The principal is a vulnerable adult.
- The qualified individual has reasonable cause to suspect that the principal is or may be a victim or target of financial exploitation.

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<sup>1</sup> An adult-at-risk means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation. [s. 46.90 (1) (br), Stats.]

<sup>2</sup> The bill defines a qualified individual as any agent representing a broker-dealer, any investment adviser representative, or any individual who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

- The qualified individual has reasonable cause to suspect that the financial exploitation is done by the agent or a person acting for the agent.

Assembly Amendment 1 provides qualified individuals with immunity from liability for good faith acceptance or refusal to accept a POA and for actions taken in furtherance of that determination, if the determination was based on reasonable suspicion.

## **BILL HISTORY**

Representative Macco offered Assembly Amendment 1 on February 23, 2021. On March 10, 2021, the Assembly Committee on Criminal Justice and Public Safety recommended adoption of the amendment on a vote of Ayes, 8; Noes, 6; and recommended passage of Assembly Bill 45, as amended, on a vote of Ayes, 13; Noes, 1.

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