Rural and Tribal Elder Justice Webinar Series

Resources for Financial Institutions To Prevent and Protect Against Elder Financial Exploitation

DECEMBER 20, 2018
ELDER JUSTICE INITIATIVE

The **mission** is to support and coordinate the Department of Justice’s enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target older adults.

The Initiative does so by—

- Promoting justice for older adults.
- Helping older victims and their families.
- Enhancing state and local efforts through training and resources.
- Supporting research to improve elder abuse policy and practice.
The mission of the Elder Justice Initiative is to support and coordinate the Department’s enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target our Nation’s seniors.

You're fighting elder abuse on the front lines. We've got your back.

- **Outreach Materials**
  Get involved, get safe community presentations, pamphlets, and materials on all types of elder abuse.

- **Prosecutor Video Series**
  Training videos geared toward successful prosecution of elder abuse cases.

- **Elder Abuse Research**
  References to articles, books, and government reports on all types of elder abuse and financial exploitation topics.

- **MDT Guide & Toolkit**
  Start or grow a local elder abuse case review multidisciplinary team with this research- and resource-rich toolkit.

- **Financial Exploitation & Reporting**
  Learn about financial scams and find the right reporting agency.

- **Webinars**
  Webinars targeted to elder abuse professionals and those interested in elder abuse topics.

- **Elder Abuse Statutes**
  State statutes relevant to elder abuse cases.
PRESENTERS

- Lisa Bleier, J.D., Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (SIFMA)
- Billie McNeeley, Financial Exploitation Specialist, Aging & People with Disabilities, Oregon Department of Human Services
ELDER JUSTICE INITIATIVE

DEVELOPMENTS IN UNDERSTANDING AND COMBATING SENIOR FINANCIAL EXPLOITATION

DECEMBER 2018
The Importance of Protecting a Growing Senior Population

10,000... 10,000 Americans will turn 65 every day through 2030.

- Currently, Americans over the age of 50 account for 77% of all financial assets in the United States (and more than half of them utilize financial advisors)

- By 2030...
  - Seniors aged 65+ will account for 18% of the nation's population

Life expectancies are on the rise and cases of reported elder abuse are increasing. *This is not a problem that is going away.*

*Source: Pew Research Center population projections*
The Reason for Concern

Familiar Faces
• Unfortunately, more than half of all senior financial exploitation is perpetrated by friends, family members, or caregivers. This exploitation can be wide-ranging, is often the most difficult to prevent, and is the most under-reported form of senior financial exploitation. A victim of such exploitation may even seek to cover up such abuse out of feelings of guilt, shame, or loyalty.

• A MetLife study found that seniors lose at least $2.9 billion each year to financial exploitation in media-reported cases*

• The National Adult Protective Services Association estimates that only 1 in 44 cases of financial abuse are ever reported to the authorities

• It is estimated that 1 in 5 Americans aged 65 or older have been victimized by financial fraud

*The MetLife Study of Elder Financial Abuse, June 2011
Financial Exploitation Is...

• Third-party fraud
• Family member exploitation
• Red flags of exploitation
• Red flags of cognitive impairment
Scams: Third-Party Fraud

- Granny Scam
- Jamaican Lottery Scam
- Non-Existential Investment Products
- Sweetheart & Romance Scams
- Nigerian Letter Fraud
Family Member Exploitation

- Purchases on older person’s credit
- Inheritance impatience
Red Flags Are...

- Social – is being isolated, accompanied by an unfamiliar “caregiver”
- Physical – dependent on another for care, repeatedly calls seeking same information
- Behavioral – withdrawn, depressed
Red Flags Are...

- Abrupt changes – unexplained withdrawals or wire transfers
- Changes to the will beneficiary
- Purchases that are inconsistent with previous lifestyle
New Tools in the Toolbox To Combat Exploitation
New Tools in the Toolbox To Combat Exploitation

• New FINRA Rules
  o 4512 Amendment
  o New Rule 2165
New Amendments to Rule 4512

- Requires firms to attempt to collect trusted contacts for new and existing clients.
- Requires firms to attempt to regularly update that information.
- Includes an exemption for institutional accounts.
- Effective February 5, 2018.

Full text of the rule:
Trusted Contact Authorization Form

- To be used in certain circumstances:
  - If customer cannot be reached
  - If firm has concerns about health status or well-being of customer
  - If firm believes customer may be a victim of fraud/exploitation

- Allows firms to share information
New Rule 2165

- Provides a safe harbor from FINRA Rules 2010, 2150, and 11870, allowing firms to temporarily hold suspicious disbursements for up to 25 days (or longer if ordered by a court or state agency of competent jurisdiction).
- Focuses on disbursements.
- Includes recordkeeping and compliance requirements.
- Effective February 5, 2018.
State Report & Hold Laws

**Laws:**
- **Alabama** – Act No. 2016-141
- **Alaska** – Chapter 65 SLA 2018
- **Arkansas** – Act No. 668 (2017)
- **Colorado** – Chapter 289, Session Laws of 2017
- **Delaware** – Title 31 Chapter 39 Delaware Code (2015)
- **Indiana** – Act. No. 221 (2016)
- **Kentucky** – Acts 2018, Ch. 127
- **Louisiana** – Act No. 580 (2016)
- **Maryland** – Ch. 838, 2017
- **Minnesota** – Ch. 161, Laws of 2018
- **Mississippi** – Sec. 75-71-413 MS Code of 1972 (2017)
- **Missouri** – RSMo 409.600-409.630 (2015)
- **Montana** – Chapter 84 (2017)
- **New Mexico** – Chapter 106 of 2017
- **North Dakota** – New Section in Ch. 10-04-08.5, Code of ND (2017)
- **Oregon** – Chapter 514, 2017 Laws
- **Tennessee** – Pub. Ch. 424 (2017)
- **Texas** – Art. 581-45 Vernon’s TX Civil Statutes (2017)
- **Utah** – Sec. 61-1-201 – 206 Utah Code Annotated
- **Washington** – Ch. 133, Laws of 2010

**Rules:**
- **Vermont** – Regulation S-2016-01
More Tools in the Toolbox

• Senior Safe Act of 2017 – new law
  - Provides broader protections for firms that report suspicions of elder financial exploitation to state and federal regulators and investigators
• If you have additional questions, please contact me at ibleier@sifma.org
• Visit our Senior Investor webpage and download our Toolkit at:
  o https://www.sifma.org/resources/general/senior-investor-protection-toolkit/
  o https://www.sifma.org/explore-issues/senior-investors/

Lisa J. Bleier
SIFMA
Managing Director and Assoc. General Counsel
Detecting and Preventing Financial Exploitation

A Closer Look for Rural America
Projected Growth of Oregon Seniors

Projected growth of Oregon’s senior population from 2012 to 2030 is 175%

Source: The Oregon Office of Economic Analysis
Nationally
A closer look at perpetrators

**FINANCIAL EXPLOITATION**

- Daughter, 16%
- Son, 14%
- Acq., 22%
- Non-relative caregiver, 14%
- Other (3.4% prof. cons), 16%
- G/C, 1%
- Daughter-in-law, 1%
- Granddaughter, 7%
- Grandson, 5%
- Husband, 1%
- Parent, 0%
- Sibling, 1%
- Son-in-law, 1%
- Wife, 1%
Who Reports?

- Anonymous 3%
- Attorney 1%
- Friend/Neighbor 9%
- Health Care 4%
- Home Health 3%
- Hospital 2%
- LEA 7%
- Mental Health 1%
- Physician 1%
- Public Official 1%
- Social Services 6%
What is Taken?

- Money: 51%
- Meds: 12%
- Debit/Credit: 8%
- Vehicle: 2%
- Will: 3%
- Scam: 3%
- Rent: 6%
- Real Estate: 3%
- Personal Property: 7%
- Food Stamps: 2%
- Food: 0%
- Hours: 1%
- Identity: 1%
- Jewelry: 1%
Why Does This Matter?

Retirement Savings Lost:

**Average US Victim Loses**

$120,000

**Average Retirement Savings at 50**

$108,000
Financial Institutions Lose Too!
Let’s Talk Rural Problems

• Resources! Resources! Resources!
• Accessibility of resources
• Inadequacies of existing health care treatment
• Inadequacies of support systems for caregivers
• Minorities/ESL
Reporting Issues in Rural Areas

- May be acquainted/known to law enforcement, healthcare professionals and other reporters
- May think they will not be taken seriously
- Confidentiality might not be maintained
- Reputations will be damaged
- They don’t want to make it worse
Tribal Specific Issue

Judicial authority for crimes of abuse by non-tribal people on tribal lands has been historically limited.
Let’s See the Numbers

- 34% - dealt with in another way or considered it a personal matter
- 18% - Not important enough to report
- 16% - Police couldn’t/wouldn’t help
- 13% - Fear of reprisal or getting the victim in trouble
- 18% - "Other"

(Non-reporting to police in rural areas per Bureau of Justice Statistics)
What Can We Do?

• Training for financial institutions
• Changes in legislation (Oregon update)
• Partnering and communication
BankSafe

- Arm the frontlines
- Raise awareness
- Tap consumer research
- Spread industry promising practices
BankSafe Focus

- Preventing financial exploitation
- Empowering financial caregivers
- Helping those with dementia
- **Making banking tools and learning environments easier to access** (real life scenarios, easy to navigate, short trainings, gamification)
11 States to Pilot BankSafe

- Oregon
- California
- Utah
- Arizona
- Colorado
- Minnesota
- Ohio
- Tennessee
- Georgia
- Florida
- Vermont
Other Resources

- Oregon Bankers Association Toolkit
- American Bankers Association (ABA) Safe Banking for Seniors
  https://www.aba.com/Engagement/Pages/safe-banking-for-seniors.aspx
- Protecting Seniors: A Resource Guide for Partnering with Law Enforcement and Adult Protective Services
Contact:

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Questions

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