DISCUSSION PAPER
PAYMENT CARDS CENTER

Combining Forces to Combat Elder Financial Victimization

How Consumers Can Avoid the Financial Pitfalls of Cognitive Aging and What They Should Be Asking Their Financial Institutions

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Summary: *Medical research has linked financial vulnerability to accelerated cognitive aging — the process by which cognitive abilities decline with age. Consumers who understand the risks of cognitive aging and what their financial institutions are doing to detect and deter financial crimes are better positioned to safeguard their retirement savings. In this paper, we examine how consumers and financial institutions can prepare for the financial pitfalls of aging. We present seven important steps that consumers aged 50 or older can take to protect themselves. We also provide consumers with a list of six questions to determine how well their financial institutions are prepared to detect signs of diminished financial capacity, elder fraud, and financial abuse, and to prevent financial losses from occurring.*

Keywords: elder fraud, financial exploitation, retirement planning

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I. Introduction

After decades of financial independence, many adults cannot imagine a future in which they can no longer perform daily financial tasks without help. As a result, older adults' retirement savings may be at risk. At the same time, while the financial services industry has made great strides in recognizing the prevalence of financial vulnerability in its aging customer base, the industry as a whole has yet to adopt comprehensive policies and procedures for detecting, responding to, and preventing financial losses for older customers. Nor have banking and securities regulators or federal policymakers endeavored to enact comprehensive new regulations or laws requiring the industry to take a more proactive approach.[1] Instead, the money slips through cracks in our financial system, leaving some older adults with a savings gap they have neither the time nor the opportunity to recoup.

Senior financial crimes are vastly underreported: It's estimated that for every 44 cases of senior financial abuse, only one is reported to authorities.[2] Many victims prefer to deny their involvement, while others may not realize they have been victimized.[3]

Likewise, the risk of incurring a financial loss because of diminished financial capacity, fraud, or financial exploitation has become increasingly likely. A 2010 study by Investor Protection Trust found that 1 out of 5 adults over the age of 65 had been a victim of financial

[1] In lieu of federal action, many states have enacted their own elder financial abuse prevention legislation. For additional information, see Richie Bernardo, "2017's States with the Best Elder-Abuse Protections," WalletHub.com (December 6, 2017).

[2] National Adult Protective Services Association, "Get Involved: Elder Financial Exploitation" (last accessed on June 7, 2018).

[3] Karla Pak and Doug Shadel, "AARP Foundation National Fraud Victim Study," AARP Foundation (March 2011). The report found that 63 percent of persons age 55 and older who were verified to have been fraud victims denied being victimized.

fraud or exploitation.[4] Another survey found that approximately 36.9 percent of seniors are affected by fraud or financial exploitation in any five-year period.[5]

The stakes are high and rising. Debt usage (i.e., borrowing) by older adults continues to trend upward, increasing the need for financial vigilance. From 2003 to 2015, the debt held by borrowers between the ages of 50 and 80 increased by about 60 percent.[6] Studies have found that older adults may find it difficult to manage debt and make investment decisions.[7] By creating the need for periodic repayments, debt increases the risk of incurring late fees, defaulting, foreclosure, and bankruptcy. The cracks in the system are already visible; a 2012 study found that bankruptcy filings were growing the fastest in the 65 and older age group primarily because of credit card interest and fees.[8]

In addition, Americans are taking on increasing responsibility for their retirement planning. Because of a shift from defined benefit plans to defined contribution plans such as the 401(k), American employees are increasingly being left to save for and manage their own retirement savings.[9] The Employee Benefit Research Institute estimates that the percentage of

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[4] Ron Acierno, Melba Hernandez-Tejada, Wendy Muzzy, and Kenneth Steve, *The National Elder Mistreatment Study*, National Institute of Justice (2009). A survey of persons over the age of 60 found that 5 percent of the respondents were *currently* being financially exploited by a family member.

[5] *The True Link Report on Elder Financial Abuse 2015*, True Link Financial (January 2015).

[6] Meta Brown, Donghoon Lee, Joelle Scally, Katherine Strair, and Wilbert van der Klaauw, "The Graying of American Debt," *Liberty Street Economics*, Federal Reserve Bank of New York (February 24, 2016). Detailed information on family holdings of debt by age can be found in the Survey of Consumer Finances.

[7] George M. Korniotis and A. Kumar, "Do Older Investors Make Better Investment Decisions?" *Review of Economics and Statistics* 93(1): 244–265 (2011). The authors find that investment skills decline sharply around the age of 70.

[8] John Pottow, "The Rise in Elder Bankruptcy Filings and Failure of U.S. Bankruptcy Law," *Elder Law Journal* 19: 220–257 (2012).

[9] U.S. Department of Labor, "Types of Retirement Plans." Participation in a defined benefit retirement plan ensures the employee receives a specified monthly benefit at retirement for the rest of the individual's life. Pensions are an example of a defined benefit plan. In contrast, defined contribution plans do not guarantee a specific monthly benefit. In these plans, the employee or the employer (or both) contribute to a retirement account over the course of the individual's career. At retirement, the employee has access to the account balance, which may be insufficient to last for the remainder of the individual's life. Examples of defined

private-sector workers participating in an employment-based defined benefit plan decreased from 38 percent in 1979 to 15 percent in 2008.[10] The shift toward defined contribution plans means that employees must determine how much they should save for retirement (assuming the income stream provides sufficient disposable income to set something aside), how to invest the savings, and, after retirement, how to draw on those savings from the time of their retirement to their death without running out of money.[11] Declining cognitive function can jeopardize savings accumulated in a defined contribution plan.

The growth of freelance and contracting jobs may further tilt the responsibility for retirement savings toward the employee. The "gig" economy, composed of individuals earning income by freelancing or by contracting with other businesses, is quickly becoming a significant source of income for Americans.[12] While these jobs may provide significant flexibility and opportunity for workers, the vast majority are not eligible for employer-sponsored benefit plans.[13] As a result, gig workers must make their own retirement savings arrangements without the benefits of employer matches, employee assistance hotlines, and education programs.

Consumers who understand the risks of cognitive decline and what their financial institutions are doing to detect and deter financial crimes are better positioned to safeguard their retirement savings.[14] In this paper, we examine how consumers and financial institutions can

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contribution plans include 401(k) plans, 403(b) plans, employee stock ownership plans, and profit-sharing plans.

[10] Jack VanDerhei, "The Importance of Defined Benefit Plans for Retirement Income Adequacy," *Notes* 32:8, Employee Benefit Research Institute (August 2011).

[11] Annamaria Lusardi and Olivia S. Mitchell, "Financial Literacy: Evidence and Implications for Financial Education," *Trends and Issues*, TIAA-CREF Institute (May 2009).

[12] Ian Hathaway and Mark Muro, "Tracking the Gig Economy: New Numbers," Brookings Institution, Report (October 13, 2016). The authors note that there were about 24 million gig workers in 2014, up from 15 million in 1997 and 22 million in 2007.

[13] Mario Lopez, "Congress Must Reinvent Retirement Savings for the Gig Economy," TheHill.com (January 18, 2018).

[14] U.S. Department of the Treasury, *Financial Institution Definition*, FinCEN (last accessed on June 7, 2018). The term *financial institution* refers to banks, credit unions, thrifts, mutual funds, brokers, broker

prepare for the financial pitfalls of aging. We present seven important steps that consumers aged 50 or older can take to protect themselves. We also provide consumers with six questions they can ask their financial institutions to assess the institutions' capability to detect signs of diminished financial capacity, elder fraud and financial abuse, and prevent financial losses from occurring.

II. Background

Medical research has linked accelerated *cognitive aging* — the process by which cognitive abilities decline with age, even in the absence of a disease process — to financial vulnerability. One of the first signs of cognitive aging is *diminished financial capacity* — the progressive loss of a person's ability to manage banking and investment decisions. It is difficult to quantify the effects of diminished financial capacity. Mistakes may be small and infrequent at first, but they tend to become more noticeable as the condition progresses until at some point a bank detects a suspicious transaction, a family member notices the person having difficulty with

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dealers, money services business, and similar institutions subject to supervision by any state or federal bank supervisory authority.

A Problem Long in the Making

Created in 1974, the U.S. House of Representatives Select Committee on Aging sought to shed light on elder abuse, a problem that had remained largely hidden until then.

The committee's 1981 report concluded that elder abuse was occurring almost as frequently as child abuse. Financial abuse was the second most common form of elder abuse after physical abuse. Reports of elder financial abuse ranged from "armed robbery of the elderly by their loved ones to larceny of their personal possessions to exotic schemes to defraud them of literally anything of value." Financial abuse was often accompanied by other forms of mistreatment, such as physical and psychological abuse.

Source: U.S. House Select Committee on Aging. "Elder Abuse: an Examination of a Hidden Problem," Washington, D.C.: U.S. Government Printing Office, 1981.

day-to-day tasks, or a physician makes a medical diagnosis. By then, it may be impossible to identify the precise point at which diminished financial capacity began affecting the person's financial decisions. Economic research has found evidence that diminished financial capacity may affect both the prices paid for and the usage of a variety of common credit products.[15]

Cognitive decline can also make older adults vulnerable to *financial fraud* — deceiving someone with promises of goods, services, or financial benefits that may not exist — and *financial exploitation*, which includes cashing someone's checks without permission, forging signatures, or improperly using the authority of conservatorship, guardianship, or a power of attorney. As a result of changes in cognitive capacity, older Americans are losing billions of

[15] Sumit Agarwal, John C. Driscoll, Xavier Gabaix, and David Laibson, "The Age of Reason: Financial Decisions Over the Lifecycle with Implications for Regulation," *Brookings Papers on Economic Activity* 2:51–117 (2009). The authors find that younger and older adults are more likely to pay higher prices for credit products after controlling for various factors than their middle-aged counterparts. Over a set of 10 studies, they find that financial mistakes are minimized at the age of 53. They also find strong evidence that older adults misuse their credit cards after executing a balance transfer, unnecessarily adding to their interest burden.

dollars each year.[16] A single financial exploitation event can result in a loss of hundreds of thousands of dollars and can have adverse consequences for physical and functional health.[17]

The likelihood of experiencing cognitive aging increases as we age, as does the risk of developing *mild cognitive impairment* (MCI) or *dementia*, both of which inhibit the brain's ability to regulate thoughts, make sound decisions, plan, and create memories. MCI occurs when a patient develops changes in his or her cognitive function despite the patient being able to live and function independently. The term *dementia* describes a more severe decline in cognitive function in which patients often require assistance with daily activities. In 60 percent to 80 percent of the cases, dementia is caused by Alzheimer's disease.[18] Most of the remaining cases are from vascular dementia, which can occur after a person experiences a stroke. While 64 percent of adults aged 85 and older will be diagnosed with MCI or dementia, diminished financial capacity has been detected in people even in their mid-40s.[19]

III. Financial Preparedness — The First Line of Defense

A number of different actions may be taken to mitigate the risks of financial fraud and exploitation, but it is critical for planning to begin before the signs of cognitive impairment are apparent. In the worst-case scenario, a person may no longer have the legal capacity to continue to make decisions about financial issues and could lose the opportunity to appoint the trusted

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[16] *The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders*, MetLife (June 2011). This study estimates that older victims lose at least $2.9 billion annually from financial abuse.

[17] Jilenne Gunther, "BankSafe Safeguards Against Exploitation," AARP Public Policy Institute (last accessed on June 7, 2018). The author states that the average financial exploitation victim loses $120,000.

Jaclyn S. Wong and Linda J. Waite, "Elder Mistreatment Predicts Later Physical and Psychological Health: Results from a National Longitudinal Study," *Journal of Elder Abuse and Neglect*, 2017, 29:1, 15–42. True Link Financial (2015) estimates that 954,000 seniors are skipping meals as a result of financial losses from abuse.

[18] Alzheimer's Association, "What Is Alzheimer's?" (last accessed on June 7, 2018).

[19] Archana Singh-Manoux, Mika Kivimaki, M. Maria Glymour, Alexis Elbaz, Claudine Berr, Klaus P. Ebmeier, Jane E. Ferrie, and Aline Dugravot, "Timing of Onset of Cognitive Decline: Results from Whitehall II Prospective Cohort Study," *BMJ* 344 doi: https://doi.org/10.1136/bmj.d7622 (2012).

person of his or her own choosing to assist in financial matters in which significant cognitive impairment has already occurred.[20] Every situation is unique, and careful thought should be given to the types of safeguards that might be appropriate in a particular circumstance. Some considerations to be financially prepared for cognitive impairment include having a trusted contact listed on all financial accounts, a will or revocable living trust, and a durable power of attorney for finances (DPOA). It's never too early to start planning, particularly for those who may be genetically predisposed to Alzheimer's disease. Having a plan in place by age 50 will help people protect themselves and their savings.

Here are seven steps to ensure financial preparedness:

1. **Assign trusted contacts to all financial accounts.** Whenever possible, assign a trusted emergency contact to all financial accounts that permit such a designation. Many financial institutions have a standard emergency contact form that grants their staff permission to alert a trusted contact when exploitation is suspected. Trusted contacts typically do not have account access unless the person is also a joint account holder.

2. **Prepare a durable financial power of attorney.** A financial power of attorney legally permits an *agent* (trusted person) to act on behalf of a *principal,* someone who can no longer make financial decisions independently. Granting a power of attorney to an agent does not negate the principal's ability to make his or her own decisions as long as he or she remains legally competent. Rather, principals maintain the right to make their own decisions until they are no longer capable. *Durable* means that the DPOA stays in effect even after the principal has become incapacitated.

[20] Raphael J. Leo, "Competency and the Capacity to Make Treatment Decisions: A Primer for Primary Care Physicians," *Primary Care Companion to The Journal of Clinical Psychiatry*, 1:5, 131–141 (1999). Legal capacity refers to an individual's ability to understand, appreciate, and manipulate information and form rational decisions. Capacity is often determined by a psychiatrist.

The Alzheimer's Association recommends that a DPOA name both a primary and a successor agent in the event that the primary agent is unable to perform her duties at some point.[21]

Think carefully before adding a *springing clause* to the DPOA, which would require an agent to secure a determination of the principal's incapacity from a doctor before he or she could exercise the power of attorney. Research shows that financial capabilities are one of the first signs of future cognitive incapacity and tend to appear well before any formal diagnosis. Thus, financial losses may have already commenced before medical confirmation of a disease process.

It is vital that the agent appointed under a DPOA be trustworthy. Some have taken advantage of their principals' trust to benefit themselves or others. Even close family members may make cash gifts to themselves or other loved ones that may not be in the best interest of the principal. A DPOA is a powerful option in the toolbox of an individual planning for potential incapacity, but since this tool has been misused, the decision to use it should not be taken lightly or without sound advice from an attorney.

3. **Prepare a will.** Having a will ensures that your assets will go to the intended recipients after death. It is important that a will be in place before the onset of any cognitive conditions, since changing the will requires having legal capacity — the ability to understand and appreciate the consequences of one's actions and to make rational decisions.[22]

4. **Keep up on the latest scams.** One way to avoid falling victim to financial fraud is to maintain awareness of the latest scams affecting the older population. The Federal Trade

[21] Alzheimer's Association, "Legal Plans: Assisting a Person with Dementia in Planning for the Future" (last accessed on June 7, 2018).

[22] Alzheimer's Association, "Legal Planning" (last accessed on June 7, 2018).

Commission (FTC), National Consumers League, and the AARP track scams and post alerts to their websites. The AARP's Fraud Watch network provides consumers with access to information about identity theft, investment fraud and the latest scams, while its Fraud Watch Helpline fields calls from consumers seeking assistance and reporting new scams. All three sites allow users to register for email notifications and periodic updates.

5. **Monitor your credit and identity.** In 2013, the FTC reported that 19 percent of all identity theft reports were filed by consumers aged 60 and older.[23] Identity theft for older adults can occur in a variety of ways, including physical theft of important documents containing confidential account information or Social Security numbers, or someone fraudulently soliciting personal information over the phone or via email. Older adults are less likely to seek new credit and thus are less likely to monitor their credit reports for new or suspicious activity. The FTC's Consumer Information website provides information about credit and identity monitoring services as well as information on how to keep personal information secure.[24]

6. **Consider hiring a money manager.** If you or one of your family members notices an elder having difficulty managing daily finances, consider hiring a daily money manager (DMM). They perform many essential financial services, often at a fraction of the cost of an accountant or financial planner. In 2016, the AARP reported that, depending on location and type of services needed, a DMM could cost $75 to $150 an hour, although

[23] "Top Threats and Responses for Older Adults," The University of Texas at Austin Center for Identity (last accessed on June 7, 2018).

[24] "Identity Theft Protection Services," Federal Trade Commission (March 2016).

some charge a monthly retainer instead of an hourly fee.[25] The American Association of Daily Money Managers can help consumers locate a certified DMM in their area.[26]

7. **Consider purchasing financial account monitoring services.** The burgeoning fintech industry has generated several third-party account monitoring services that assist consumers in spotting suspicious financial transactions across a variety of financial platforms. One such company, EverSafe, employs sophisticated machine learning algorithms to observe clients' personal financial behavior at all times so the tool may identify deviations from a consumer's typical behavior, which may point to diminished financial capacity, fraud, or exploitation.[27]

IV. Questions for Financial Institutions

It is no coincidence that banks and other financial institutions are at the center of any discussion of elder financial abuse. To borrow an old adage, banks are "where the money's at." About 73 percent of the more than $57 trillion in investable assets owned by U.S. consumers are held by those aged 55 and older.[28] Transactions initiated by older adults to fulfill debt obligations, pay bills, and make purchases send the money back out through a vast electronic network of financial institutions on the way to the intended recipients. Income from Social Security and other government pensions infuse hundreds of billions of dollars into the bank accounts of seniors each

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[25] Lynnette Khalfani-Cox, "Need Help Managing Day-to-Day Finances?" AARP (July 1, 2016).

[26] "About Us," American Association of Daily Money Managers (last accessed on June 7, 2018). Certified Daily Money Managers earn a Professional Daily Money Manager (PDMM) designation.

[27] Marguerite DeLiema and Martha Deevy, "Aging and Financial Victimization: How Should the Financial Service Industry Respond?" Pension Research Council Working Paper PRC WP2016 (July 2016).

[28] Employee Benefit Research Institute (EBRI) estimates based on data contained in the 2016 Survey of Consumer Finances. Investable assets include individual retirement account assets plus financial assets, and do not include housing assets. See also Jesse Bricker, Lisa J. Dettling, Alice Henriques, Joanne W. Hsu, Lindsay Jacobs, Kevin B. Moore, Sarah Pack, John Sabelhaus, Jeffrey Thompson, and Richard A. Windle, "Changes in U.S. Family Finances from 2013 to 2016: Evidence from the Survey of Consumer Finances," *Federal Reserve Bulletin* 103:3 (2017).

year. In 2016, the Social Security Administration made $768 billion in payments to retirees and their families through the Old-Age and Survivors Insurance (OASI) program alone.[29]

Banks and financial institutions have not all approached the issue of safeguarding their customers from financial fraud and exploitation in the same ways, and some practices may be more effective at detecting or preventing customers from risk than others.[30] Recognizing the lack of consistency across organizations, federal agencies such as the Consumer Financial Protection Bureau (CFPB) and the FTC, and other organizations including the Securities Industry and Financial Markets Association (SIFMA), and the AARP have offered guidance to assist the financial services community with their efforts to prevent elder financial abuse and to intervene when it occurs.[31]

We surveyed information provided by these and other sources to create a list of six questions that older adults and their caregivers can ask their financial institution to better understand what the institution is doing to detect and prevent elder financial abuse (see Figure 1).[32]

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[29] "A Summary of the 2017 Annual Reports," Social Security Administration, Status of the Social Security and Medicare Programs, Table 2: Program Cost (2017).

[30] Jilenne Gunther and Robert Neill, "Snapshots: Banks Empowering Customers and Fighting Exploitation," AARP Public Policy Institute, BankSafe (February 2016).

Jilenne Gunther, "Preventing Exploitation: Five Banks Leading the Fight," AARP Public Policy Institute (April 2016).

[31] "Recommendations and Report for Financial Institutions on Preventing and Responding to Elder Financial Exploitation," Consumer Financial Protection Bureau (March 2016). A companion advisory to the CFPB's full report is available; Consumer Financial Protection Bureau and Federal Deposit Insurance Corporation, "Money Smart for Older Adults Resource Guide" (February 2017); "Senior Investor Protection Toolkit," SIFMA (last accessed on June 7, 2018); "Guide to Age-Friendly Banking Products, Services, Protections, and Resources for Older Adults," National Community Reinvestment Coalition (2011).

[32] This section benefited from discussions with Jilenne Gunther, director of the BankSafe Initiative for the AARP Public Policy Institute.

See also DeLiema and Deevy (2016). The authors pose several questions to financial services firms, including what the firm is doing to detect and prevent fraud and financial exploitation; how to train employees to recognize the signs of financial victimization by the clients' friends, family, or strangers; and what the policies are for reporting if a client is being victimized.

1. **How much and what type of training has the financial institution provided its staff on how to recognize and react to signs of diminished financial capacity, elder financial fraud, and exploitation?** The signs of diminished financial capacity, fraud, and exploitation are often visible to a trained eye. Depending on the type of institution, frontline staff, branch managers, call center employees, and financial advisers should be trained to recognize the signs of existing or imminent financial trouble. Effective training programs can help to identify red flags, give examples of known elder fraud scams, explain what actions bank employees should take once suspicious activity is detected, and clearly delineate the roles and responsibilities of management and staff.

   Not all banks require specialized training for frontline staff or customer service representatives.[33] Likewise, not all training programs are created equal. For example, a 2016 survey found that, while all new employees at financial advisory firms were trained to recognize the signs of financial exploitation, training techniques varied, and not all firms required periodic refreshers and updates.[34] There are few excuses for not adequately training staff. Today, financial institutions offer a variety of free or low-cost training, including the North American Securities Administrators Association's (NASAA) Senior$afe Training program; SIFMA's Senior Investor Protection Toolkit; and a pilot launched by the AARP in May 2018.[35]

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[33] "2017 Older Americans Benchmarking Report: Findings from a Survey of Banks," American Bankers Association Foundation (2017). The report notes that specialized training is required for all frontline staff or customer service representatives at 7 out of the 10 banks surveyed. Training is required for all other bank personnel at 6 out of the 10 banks surveyed.

[34] DeLiema and Deevy (2016). Depending on the format, duration, and intensity of the training program, some may require more frequent updates or refreshers than others.

[35] The North American Securities Administrators Association's (NASAA) Senior$afe Training program, unveiled in March 2016, is available to all members of the banking and securities industries. As part of its free Senior Investor Protection Toolkit, SIFMA offers resources to help brokers and financial advisers identify the signs of fraud and financial exploitation. Beginning in May 2018, the AARP launched a pilot program for its newly developed BankSafe training platform, aimed at teaching frontline staff, supervisors,

2. **What monitoring systems or technology is the financial institution using to enhance its ability to detect unusual transactions?** While many of today's older adults prefer face-to-face transactions with a bank teller, automated surveillance tools may also be needed as Internet-savvy baby boomers age into retirement.[36] Continuous monitoring and analysis of transaction data can help financial institutions identify, flag, and address suspicious activity. For example, sudden activity on a rarely used account, transaction patterns inconsistent with that of an older consumer, and large daily ATM withdrawals are all potential signs of financial exploitation.[37]

   Artificial intelligence, machine learning, and big data analytics are useful tools to detect all types of fraud and exploitation. They have distinct advantages over rules-based systems that rely on static rules established from known behavioral patterns and that are not capable of learning to identify new patterns in the data.[38] For example, when scammers realize someone is willing to wire money to them, they will keep trying to extract as much money from the victim as possible. Several wire transfers may be initiated by the customer. Sometimes the fraudster may sell the victim's information to another scammer as part of a sucker list, resulting in more transfers.[39] A rules-based fraud detection system that flags wire transfers over $5,000 may not highlight any of the payments to fraudsters if they are carefully planned in smaller increments to avoid

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and compliance officers how to detect and prevent exploitation. See https://www.aarp.org/content/dam/aarp/ppi/2018/bank-safe-pilot.pdf.

[36] Susan Burhouse, Karyen Chu, Ryan Goodstein, Joyce Northwood, Yazmin Osaki, and Dhruv Sharma, "2013 FDIC National Survey of Unbanked and Underbanked Households," Federal Deposit Insurance Corporation (October 2014). The authors found that 54.7 percent of households aged 65 or older primarily used bank tellers to access their account.

[37] "How Financial Institutions Can Prevent Elder Financial Exploitation," Narmi Inc., 2018.

[38] A rules-based system might include a rule that flags ATM withdrawals between 1:00 a.m. and 5:00 a.m. from accounts belonging to consumers aged 65 and older.

[39] "How Scam Charity Victims End Up on a Sucker List — And What You Can Do to Avoid This," Scambusters.org (last accessed on June 7, 2018).

detection. In contrast, a machine-learning algorithm could detect the scams by observing a deviation from the customer's normal banking activities or by catching the series of small-dollar wire transfers and matching the pattern to previous fraud cases. To our knowledge, these tools have not yet been widely implemented across the industry.

3. **What tools does the institution make available to its account holders and their financial caregivers to help them detect suspicious account activity?** At the intersection of personal financial preparedness, financial caregiving, and financial technology are third-party account monitoring tools that allow a trusted third-party or financial caregiver to monitor an older adult's financial accounts for signs of trouble. Financial institutions should ideally provide one or more tools and services, such as read-only access to online banking, convenience accounts (a special type of joint account), and transaction and suspicious activity alerts.[40]

   Providing read-only account access to a trusted person enables a second set of eyes to monitor a customer's account for abnormal activity. The trusted person should have access to the older person's online banking account via a separate set of credentials (username and password) tied to the account so the trusted person cannot authorize any transactions but will be able to see any unusual activity.

   Joint accounts are a popular way for financial caregivers to assist older adults, although a number of their key features may facilitate abuse by the joint account holder, notably the rights of ownership and survivorship.[41] *Right of ownership* means that both account holders have a right to use any and all of the funds in the account, regardless of how the

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[40] Alerts are typically delivered via text message or email.

[41] For more information on the risks of joint bank accounts, see Roxanne Hawn, "Risks of Joint Bank Accounts," Bankrate.com (September 18, 2017).

other person uses the funds or whether the older adult objects. *Right of survivorship* lets the person control the account upon death of the older adult.

In cases in which the older adult may not want the caregiver to receive all the account funds upon the death of the primary account holder, banks may offer a convenience account, which does not give rise to a right of survivorship.[42] Joint accounts or convenience accounts should only be considered when the older adult has confidence that the trusted party being added to the account will always act in the interest of the original account holder. If there is any doubt about whether the additional party is sufficiently trustworthy, these account types may not be viable options.[43]

Some banks permit the account holder to authorize a trusted person to receive alerts in addition to, or instead of, the primary account holder. These alerts can be especially helpful when the account holder has experienced some form of cognitive impairment, such that the caregiver might spot anomalies revealing that the account holder herself has authorized transactions that are not in her financial interest.

4. **Does the financial institution have an emergency contact form and policies governing when an employee should reach out to the person listed on the form? If so, what is the policy?** When bank employees and financial advisers believe an older person is the victim of fraud, they may not be able to convince the person to cancel a transaction. This often occurs when the older adult is the victim of a scam, such as:

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[42] Charles P. Sabatino, "Damage Prevention and Control for Financial Incapacity," *JAMA* 305 (February 2011). Convenience accounts are also known as agent accounts. Gábor Kézdi and Robert J. Willis, "Expectations, Aging, and Cognitive Decline," *Discoveries in the Economics of Aging*, University of Chicago Press (June 2014).

[43] Adding more than one trusted person to the joint or convenience account arrangement may mitigate the risk of one person acting unilaterally.

- the Grandparent Scam, in which a scammer calls a grandparent, pretending to be a grandchild in trouble and in need of money;[44]
- the Lottery Scam, in which an older person receives an email, phone call, or letter saying that he has won the lottery but must pay a tax or fee, often by prepaid card, before receiving the winnings;[45] and
- the Romance Scam, in which a scammer establishes a relationship with someone and gains her trust, quickly proposing marriage before ever meeting in person. Eventually, the scammer begins asking for money.[46]

In those situations, the financial institution should reach out to someone the older adult trusts to try to have that person convince the older adult to reconsider sending money to the scammer. To do so, the financial institution must have both the trusted person's contact information as well as the account holder's consent to contact that person. A financial institution that does not have an emergency contact on file for a particular account may have to allow a suspicious transaction to go through.

On February 5, 2018, the Financial Institution Regulatory Authority (FINRA) began requiring its member institutions (brokers and broker-dealers) to make reasonable efforts to obtain the name and contact information for a trusted contact when opening a new account or when updating the customer's account information.[47] Older adults should willingly provide the requested information. Although consumers may want to keep their

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[44] "Fraud Against Older Adults: Grandparent Scams," *Fraud.org*, National Consumers League (2018).

[45] Sid Kirchheimer, "Lottery Rip-offs: When Winning Means Losing," AARP.org (last accessed on June 7, 2018).

[46] "Romance Scams: Online Imposters Break Hearts and Bank Accounts," FBI.gov (February 13, 2017).

[47] "Financial Exploitation of Seniors," Regulatory Notice 17-11, FINRA (March 2017). FINRA, a nongovernmental organization that regulates member brokerage firms and exchange markets, is the largest independent regulator for all securities firms doing business in the United States.

financial information completely private, doing so may become an obstacle in preventing or mitigating financial harm.

5. **Does the financial institution have policies to prevent an agent under a power of attorney from abusing his or her access to an older person's finances?** As discussed previously, a durable power of attorney is a valuable tool for a person planning for the possibility of cognitive impairment. Establishing this power of attorney ensures that someone else can make decisions for an older adult who is unable to make independent financial decisions.

   Even the most well-intentioned power of attorney can turn into a license to steal.[48] In certain situations, abusing a power of attorney may not be considered a crime, such as in situations in which the agent makes gifts of cash or other assets to himself or someone else without authorization from the principal and when the agent engages in transactions that go against the principal's wishes or estate plan.[49] Financial institutions should train customer-facing staff to recognize potential power of attorney abuse and, when detected, to escalate the issue to a manager specifically trained to address the issue.

   On the other hand, while financial institutions need to be alert to possible power of attorney abuse, they also need to be aware that employees may refuse to honor a valid power of attorney that does not show any hallmark signs of fraud or abuse. The CFPB reports that financial institutions sometimes refuse to accept a power of attorney that is valid under state law.[50] The financial institution may object because its own power of

[48] Lori A. Stiegel and Ellen V. Klem, "Power of Attorney Abuse: What States Can Do About It," AARP Public Policy Institute, *Research Report* (November 2008).

[49] Linda S. Whitton, "National Durable Power of Attorney Survey Results and Analysis," National Conference of Commissioners on Uniform State Laws (October 29, 2002).

[50] "Recommendations and Report for Financial Institutions on Preventing and Responding to Elder Financial Exploitation," Consumer Financial Protection Bureau (March 2016).

attorney form was not used, which is typically not a valid basis for objection under state law. Financial institutions must ensure that their employees are well trained to both honor a valid power of attorney and to detect signs of exploitation so that the purposes of the power of attorney are properly effectuated.

6. **If the financial institution suspects financial abuse by a caregiver, trustee, guardian, or attorney-in-fact, does it report the case to local law enforcement and adult protective services (APS)?**[51] Many older adults have family members or other trusted persons they can rely upon to assist with banking and investment decisions. Sometimes, what begins as an honest caregiving effort can turn into a financially exploitative situation. Of the older adults who are financially exploited, most of the perpetrators are family members or someone they trust.[52] Victims of financial exploitation lose an average of $120,000.[53] Early intervention by law enforcement and APS is critical to preventing a perpetrator from accessing savings. Unfortunately, the laws governing financial institutions' reporting obligations are murky and vary from state to state. Some financial institutions have a policy of reporting all cases of suspected elder abuse to APS, whether mandated by state law or not.[54] Financial institutions that do not report suspected elder abuse provide opportunities for the perpetrator to steal additional savings. This may

[51] Legal Information Institute, "Attorney-in-Fact" (last accessed on June 7, 2018). An attorney-in-fact is an agent authorized to act on behalf of another person but not necessarily authorized to practice law.

[52] "Get Involved: Elder Financial Exploitation," National Adult Protective Services Association (last accessed on June 7, 2018).

[53] Jilenne Gunther, "BankSafe Safeguards Against Exploitation," AARP Public Policy Institute (last accessed on June 7, 2018).

[54] Ronald C. Long, "Elder Financial Abuse," *Elder Abuse and Its Prevention: Forum on Global Violence Prevention*. Washington, D.C.: National Academies Press (2014).

also affect the victim's ability to recover any of the stolen funds through the legal system, since it provides the perpetrator with more time to spend the stolen funds.[55]

V. Conclusion

In this paper, we identified six questions that adult consumers should ask of any institution that holds their savings and investments. Financial institutions in turn should be able to provide satisfactory answers to these questions. Consumers should know whether:

- the institution's staff is trained to recognize financial vulnerability;
- it uses account monitoring software for that purpose;
- it has account monitoring tools for account holders and their financial caregivers;
- it has an emergency contact form and has established guidelines for determining whether to use the form to contact a trusted third-party;
- it has a way to prevent power of attorney abuse; and
- it reports suspected financial abuse to local law enforcement and/or APS.

Consumers should approach the topic of financial vulnerability in old age with the eye of a seasoned risk manager, understanding the risk, determining points of vulnerability, and taking steps to mitigate the potentially hazardous effects of those vulnerabilities. It is important to perform an assessment and implement a plan *before* signs of cognitive impairment appear. A good rule of thumb is to have the plan in place by age 50, although a person with a family history of Alzheimer's or other neurological diseases may want to have a plan sooner. Waiting to act until after cognitive decline sets in creates serious risks, including losing the legal capacity to make financial decisions and appoint a person to manage financial matters.

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[55] Sandra L. Hughes, "Legal Issues Related to Bank Reporting of Suspected Elder Financial Abuse," American Bar Association (2003).

Figure 1: Questions for Financial Institutions

Here is a list of six questions that older adults and their financial caregivers can ask their financial institutions to better understand what each institution is doing to detect and prevent elder fraud and financial abuse.

1. How much and what type of training does your staff receive to recognize and react to signs of diminished financial capacity, elder financial fraud, and exploitation?

2. What monitoring systems or technology do you use to detect unusual transactions?

3. What tools do you make available to account holders and financial caregivers to enable us to help detect suspicious account activity?

4. Do you have an emergency contact form and policies governing when an employee should reach out to the person listed on the form? If so, what is the policy?

5. Do you have policies in place to prevent an agent under a power of attorney from abusing his or her access to my finances?

6. If someone in your organization suspects financial abuse, will they report it to local law enforcement and adult protective services?

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