THE REAL IMPACT OF ELDER FINANCIAL EXPLOITATION

PlainsCapital Bank

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The COVID–19 pandemic has painted a fractured portrait of how the world treats its elderly population. At the height of the pandemic, communities worldwide halted everyday life, enforcing stay-at-home orders and social distancing recommendations that shuttered businesses, emptied streets, and slowed economies to the point of recession—in large part to protect senior citizens, who are among those with the highest risk of dying from a COVID–19 infection.

Yet, these efforts clash with the daily reality of senior citizens who have been the unwilling subjects of one of the most pervasive forms of elder abuse: elder financial exploitation. And now, with social distancing measures forcing people who are 65 and older to stay home and turn to others for help purchasing supplies and food—characteristics common among elder fraud victims—the risk is greater than ever before.

The abuse is so pervasive that physicians and academic scholars have called it a "burgeoning public health crisis." It's estimated that five million seniors are financially exploited every year, incurring anywhere between $2.9 and $36.5 billion in personal financial losses annually.[1] Losses of this magnitude are troubling—even more troubling is just how difficult it is for the government, law enforcement, and public agencies to calculate a consistent figure.[2]

However, the financial damages of elder financial exploitation don't even begin to touch the mental and emotional anguish victims experience. Elders, who are already in their waning years in terms of cognitive acuity, are crippled both socially and emotionally. Families are torn apart. And, in some cases, victims become so bereaved and alienated they consider taking their own lives.

In this paper, we'll take a look at three real-life cases of elder financial exploitation to show just how damaging this form of elder abuse can be. Then, we'll define the problem and its scope, provide you with insight into why scammers target seniors, and review what our public and private institutions are doing about it. Finally, we'll provide you and your loved ones with useful tips on how to recognize, avoid, and report elder fraud.

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"I Knew These Crimes Were Killing People"

Most people confront financial fraud attempts on a daily basis. We get phone calls from unknown numbers that our cell phone providers mark as "Scam Likely." We receive spam emails from supposedly esteemed individuals from far away countries asking us to wire a little bit of money today to get a big cash payout tomorrow. Someone will even show up at our doorstep after a hailstorm promoting a great deal on roof repair.

Despite the flood of scammers attempting to relieve us of our hard-earned cash, many attempts prove unsuccessful. First, we're wary of them because they're strangers. Second, we can sense something is off. These "gut feelings" are actually our brain protecting us from harm. While some people never lose their capacity to evaluate a situation like those mentioned above and act accordingly, many do as they approach their twilight years. Perpetrators of elder financial exploitation know this. That's exactly why they target senior citizens. And the end result of this type of exploitation can be truly disastrous.

For Marjorie Jones, a legally blind, 82-year-old resident of Moss Bluff, Louisiana, the cost of being a victim of elderly financial abuse was her life. According to a *Bloomberg* article, Jones answered a phone call in 2010 that would change her life and the lives of her family forever. A man on the other end of the line informed her that she'd won a sweepstakes prize. All she had to do to collect the prize was pay the obligatory fees and taxes. So she wired the payment. Unfortunately, it wouldn't be the last.

The man and several other co-conspirators continued to call her, piling on conditions to get her to send more money. The scheme kept going and they convinced Jones to take out a reverse mortgage on her home, cash in a life insurance policy, and borrow money from her family. The last family member to hear from Jones was her granddaughter, who Jones called asking to borrow $6,000. Shortly after, Jones took her own life.[3]

In the end, Jones lost hundreds of thousands of dollars and had only $69 in her bank account. But most importantly, she lost her life—a result familiar to many combatting elder fraud. In the same article, Elizabeth Loewy, the former chief of the Elder Abuse Unit in the Manhattan District Attorney's Office, references a case similar to Jones', saying, "I knew these crimes were killing people. So many family members told me, 'I can't prove it, but this killed him.'"[4]

For Marjorie Jones, a legally blind, 82-year-old resident of Moss Bluff, Louisiana, the cost of being a victim of elderly financial abuse was her life.

Self-Sufficient Seniors are Equally Prone to Attacks

Many might consider Marjorie Jones a typical candidate for this type of exploitation. She was an octogenarian, partially blind, and lived alone. But this type of exploitation equally affects those who, for all intents and purposes, have their faculties intact and are otherwise self-sufficient.

Take Judy, the subject of a *MarketPlace* article on elder financial exploitation. At the time of writing, Judy was a 79-year-old who appeared younger than her years. In retirement, Judy maintained her status as a registered nurse, working sporadically. She was able to get around her New Jersey town independently, driving a mid-size SUV. And she attended exercise classes several times a week. All in all, Judy was the picture of physical and mental health.

Yet, like Marjorie, Judy fell prey to a financial exploitation scam that lasted two weeks and cost her nearly $200,000. Her experience began much like Jones'—with a phone call. Except instead of a sweepstakes representative on the other end of the line, a computer support technician needed access to her personal computer in order to fix it.

The fraudster gained access to Judy's computer and showed her what appeared to be the balance of one of her bank accounts, which should have had a balance of nearly $30,000 but showed as having next to nothing. The fraudster claimed that he could help her recover the lost money for a fee. The next two weeks of her life consisted of purchasing Wal-Mart and Target gift cards and turning them over to the scammer by phone, as well as initiating two bank transfers—one of which was for $45,000 to a business in Nepal. Judy's savings, retirement funds, and credit cards funded the gift card purchases and money transfers.

However, when Judy refused to raise her credit limit, the fraudster began threatening her family. Thankfully, the threats were toothless. In a final attempt to get Judy to send more money, the fraudster showed her a check on her computer for $200,000. But this time, Judy spotted an out-of-place comma that caused her to reconsider how real the check was. As a result, Judy cut off all communication with the fraudster, ending an ordeal that consumed several weeks of her life and cost her hundreds of thousands of dollars.[5]

Betraying an Expectation of Trust

While Marjorie and Judy fell victim to faceless voices from their phone receivers, it's also highly common for close acquaintances and family members to trick many seniors out of their life savings. In an interview with Charlotte, North Carolina, NPR affiliate WFAE 90.7, Philip Marshall, the grandson of late New York author and philanthropist Brooke Astor, spoke about his family's experience with elder financial exploitation.

> *It was betraying his mother when she needed him most that cut the deepest.*

In 2002, Philip filed suit against his father, Anthony Marshall, for allegedly attempting to take control of Astor's $100 million fortune. The ordeal was a high-profile case involving tens of millions of dollars. According to Philip, his father's exploitation spanned several years as Astor approached 100 years old and Alzheimer's began to ravage her mental functions.[6]

Philip first became suspicious of his father when he sold one of Astor's paintings—a much loved artifact that, as far as Philip knew, his grandmother had promised to the New York City Metropolitan Museum of Art.[7] The painting sold for $10 million and Philip's father took a $2 million commission on the sale. A tale of deception and betrayal unspun from there.

Anthony, his third wife Charlene, and their associates took advantage of Astor's illness and used his power of attorney and guardianship status to exploit his mother. In addition to selling Astor's art, Anthony made considerable charges to her account, convinced his mother to amend her will (thereby putting millions of dollars under his control), and persuaded her to bequeath her cherished summer home in Maine to him that he then charged her to maintain.[8]

Overall, Anthony was convicted on 14 counts of theft, grand larceny, and conspiracy. However, it was betraying his mother when she needed him most that cut the deepest. According to a *Vanity Fair* article, as Astor further waded into the waters of dementia, she'd experience moments of alertness in the middle of the night:

> People were robbing her, she cried, threatening to put her away in a home. "It's awful here. Take me away with you," she implored her British cousin Viscount Astor. Brooke's nurses were terrified.[9]

Astor's ordeal affected Philip equally. Today, he tells his grandmother's story to build awareness of elder financial abuse and advance elder justice, and often serves as a keynote speaker at financial services conferences to help professionals identify and report suspected cases of exploitation.[10]

What is Elder Financial Exploitation?

A Public Health Crisis Defined

Elder financial exploitation is a form of elder abuse, which the National Center on Elder Abuse defines as "the mistreatment or harming of an older person," which includes "physical, emotional, or sexual abuse, along with neglect and financial exploitation." [11]

Despite the varying prevalence of different types of elder abuse, a 2017 memorandum issued by the Consumer Financial Protection Bureau, the U.S. Department of Treasury, and the Financial Crimes Enforcement Network (FinCEN) states that elder financial exploitation is the most common form of elder abuse in the United States.[12]

The National Adult Protective Services Association defines elder financial exploitation as the misuse or theft of "the assets of a vulnerable adult for his/her own personal benefit … without the explicit knowledge or consent of a senior or disabled adult, depriving him/her of vital financial resources for his/her personal needs." [13]

Some definitions further categorize types of elder financial exploitation by the individual(s) committing the exploitative behavior. "Financial abuse" is the general term for a victim who is exploited by family members or close acquaintances (much like Brooke Astor), while "elder fraud" is generally used when referring to senior citizens who are the victims of impersonal scams initiated by strangers (much like Marjorie and Judy).

Elder financial exploitation can be further broken down into two broad categories:

- **Theft of income** is the most common type of financial exploitation among all age groups and includes thefts between $1,000 and $5,000.
- **Theft of assets** is less common among the general population, but more common among senior citizens and involves abuse associated with powers of attorney, real estate transactions, identity theft, and tax manipulation.[14]

In addition to these categorizations, concrete examples of exploitative behavior toward individuals over the age of 65 include:

- Check cashing without authorization
- Signing financial instruments/contracts without permission
- Stealing or misappropriating funds and/or possessions
- Coercing or deceiving to sign any document, especially those related to contracts, wills, testaments, powers of attorney, etc.
- Acting improperly or abusing status as conservator, guardian, or power of attorney

Elder financial exploitation is the most common form of elder abuse in the United States.

Many of these examples are the result of popular and repeatable scams which have become so commonplace that governing agencies have named and pinpointed their key characteristics. You can find an up-to-date list of common online scams on PlainsCapital Bank's Fraud website and a list of current scams specific to senior citizens on the U.S. Department of Justice's Elder Justice Initiative Senior Scam Alert website.

The Scope of Elder Financial Exploitation

In 2015, the *New England Journal of Medicine* called the financial exploitation of older adults a "virtual epidemic." In the past four years, the severity of this problem has only increased.[15]

As the number of confirmed cases surges, so does the effort by public agencies and law enforcement authorities to create awareness and, thus, develop more accurate reporting.

The U.S. Special Committee on Aging, in particular, has made progress to promote awareness of elder financial exploitation by creating a toll-free Fraud Hotline (1-855-303-9470). Since the creation of the hotline, more than

9,500 people from every state in the nation reported fraud attempts—1,300 of which were in 2019 alone.[16]

Yet, despite best efforts to determine the true scope of elder fraud, there are many gaps in the available data. In fact, the *Journal of General Internal Medicine* acknowledged that although elder financial exploitation is the most common form of elder abuse, it has been traditionally of less interest to investigators than physical, sexual, and emotional mistreatment. [17]

One of the largest gaps in data is the true monetary cost of elder fraud. One often-used amount, reported in the MetLife Study of Elder Financial Abuse, estimates victims' losses in the United States at $2.9 billion every year. However, while this figure has helped to bring attention to the issue, it's based on a quantitative analysis of monetary losses included in newsfeed media reports and an assumption that unreported losses were equivalent to reported losses.[18] Furthermore, the figure is now at least nine years old.

Regional reporting approaches to estimating elder financial exploitation have fared better. In 2016, the New York State Office of Children and Family Services published what it described as one of the most in-depth studies to estimate both the financial and non-financial costs of elder financial abuse. The study reviewed 928 Adult Protective Services cases from 31 New York social services districts, including cases from Lifespan of Greater Rochester, Inc.[20]

Because these cases included physically or mentally impaired adults over the age of 18 as well as elder victims, the researchers adjusted their actual loss formula by only including cases where the victims were senior citizens. They then multiplied this data by 10 and 44 to account for unreported incidents and create both a low- and high-end estimate. Using this method, the study concluded that elder victim's annual losses in the state of New York alone range from $352 million to more than $1.5 billion.

> *Yet, to understand the real impact of this type of exploitation, you also need to look deeper than impersonal, data-driven studies.*

A Growing Concern

Searching for the true monetary cost of elder financial abuse highlights two things: first, the current gaps in reporting between national, state, and regional agencies; and second, the only way to determine this cost is by implementing an integrated and systemic approach, similar to a recent proposal by the U.S. Securities and Exchange Commission's (SEC) Office of the Investor Advocate.[21]

One assumption we can be certain of is that the number of elder financial exploitation cases has only continued

The Cost of Elder Fraud:
Reported Dollar Amounts of Elder Financial Abuse by Case Type in the Media and the Academy over a Three-Month Period[19]

$306.1 million in reported fraud losses committed under guise of Medicare/Medicaid	**$205.2 million** in reported fraud losses committed by business professionals	**$11.5 million** in reported fraud losses committed by friends and family	**$7.6 million** in reported fraud losses committed by strangers

Data courtesy of MetLife Mature Market Institute's analysis of scholarly literature, articles published by the U.S. Administration on Aging's National Center on Elder Abuse, and various news articles over a three-month time span in 2010.

to increase—whether it's confirmed reported cases or an estimate of unreported cases. A 2018 analysis of four recent studies by the Office of the Investor Advocate concludes the past-year prevalence (percentage of elder financial exploitation victims in the past 12 months) to be between 2.7 and 6.6 percent, and the lifetime prevalence (percentage of elder financial exploitation victims since age 60) at 4.7 percent.[22]

When it comes to elder financial exploitation, the estimated monetary impact and the number of senior citizens in the U.S. on average who fall victim underscore the severity of this issue. Yet, to understand the real impact of this type of exploitation, you also need to look deeper than impersonal, data-driven studies.

Who Fraudsters Target and Why

Marjorie, Judy, and Brooke's stories above serve to provide us with a profile of the two main types of perpetrators. Yet, these three women also represent a telling cross section of the types of people generally targeted.

At the time of their exploitation, each victim was of the right age for their cases to be within the definition of elder abuse—60 years or older. However, that's where their similarities end. They all suffered from either cognitive or functional impairment, a state of dependency, and/or an economic status that made them attractive targets. These circumstances illustrate why fraudsters target seniors in the first place.

Cognitive Impairment

As a healthy human brain ages, fluid intelligence (the ability to make a logical decision based on available information) decreases.[23] An individual with a decline in fluid intelligence loses the ability to judge the risk inherent in a situation, making it harder and harder for them to manage their assets in a responsible manner.

However, when you combine the effect of a decrease in fluid intelligence with common brain diseases like Alzheimer's and other forms of dementia, you have an individual ripe for exploitation.

The Progressive Decline in Financial Capacity

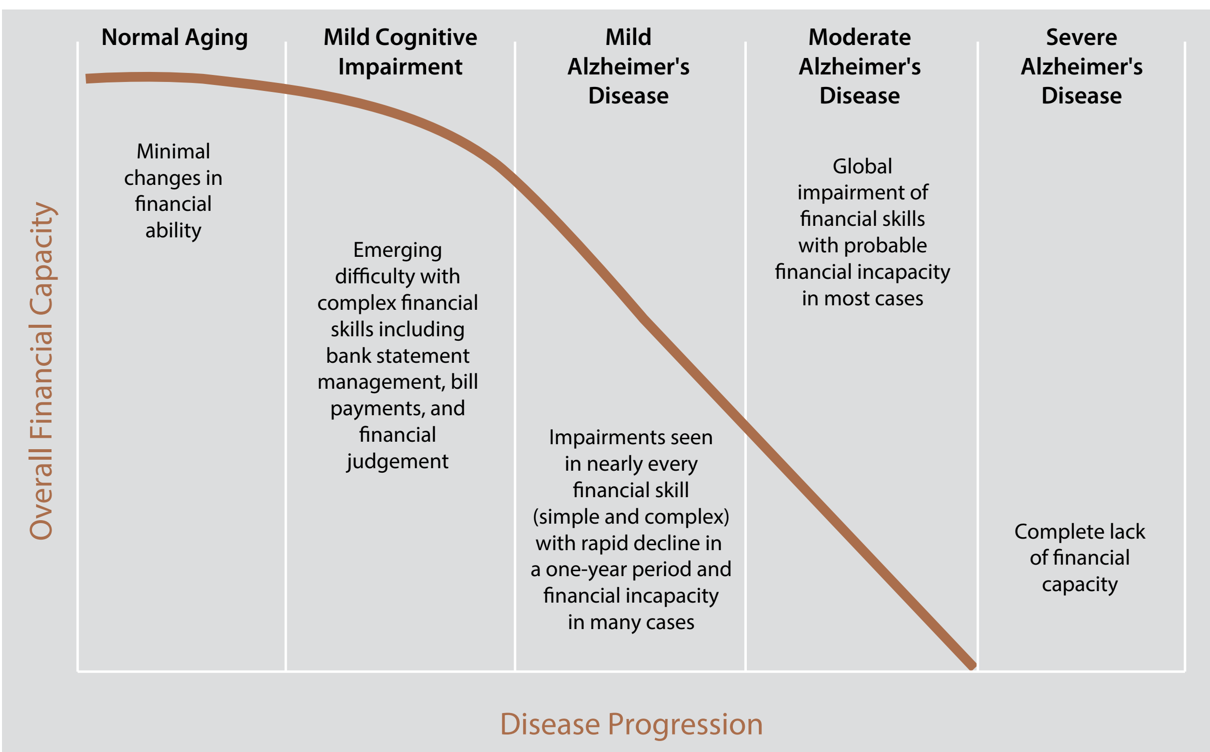

Chart courtesy of Eric Widera et al, "Finances in the Older Patient with Cognitive Impairment."[24]

Alzheimer's disease has a severe impact on an individual's cognition, affecting their ability to make sound judgements, solve routine problems, and communicate effectively—all necessary cognitive skills that endow us with financial capacity, or "the ability to independently manage one's financial affairs in a manner consistent with one's personal self-interest and values." [25]

Other forms of dementia also impair an elder's ability to perform routine financial tasks with sound judgement. Mild Cognitive Impairment, or MCI, is considered a more mild form of dementia. And while many feel that MCI does not impair an individual's ability to complete everyday tasks, it can affect memory and thinking abilities to a degree noticeable to both family and friends.

A recent study indicates that 16 to 20 percent of people who are 65 or older have MCI.[26] Furthermore, in a review of 32 studies, 32 percent of individuals diagnosed with the condition developed Alzheimer's dementia within five years.[27] While this may seem like a minor percentage, it's important to remember that the effects of dementia are progressive, and what may begin as minor cognitive impairment often worsens with age.

Poor Health and Functional Impairment

Aging and illness are inextricably linked. Similar to cognitive impairment, as routine illnesses progress, they can become prohibitive and incapacitating. Unfortunately, individuals who cannot care for themselves properly often become targets for exploitation. This was the case for Marjorie Jones as well as thousands of seniors across the country.

Two studies from New York State illustrate the link between poor health and functional impairments. One analyzed the lifetime and past-year prevalence of existing elder financial exploitation cases and concluded that an individual's inability to conduct everyday tasks was a direct cause for exploitation.[28] The other study charted the physical impairments and co-occurring problems of clients named in financial exploitation referrals:

Health Status of Clients Named in Financial Exploitation Referrals[29]

	#	%
Health concerns	451	49%
Physical impairment	329	36%
Signs of dementia	274	30%
Drug or other substance abuse	66	7%
One or more of the above	705	76%
Mental impairment and/or dementia	501	54%

*Total percentage adds to more than 100% since more than one issue may have been coded for each referral. Chart courtesy of the New York State Office of Children and Family Services.

Financial Means and Retirement Preparedness

While an elderly person with a compromised mental and physical constitution is easy prey for financial fraudsters, we shouldn't overlook what attracts them in the first place: financial gain.

It's common sense to assume that the majority of seniors have accumulated a significant amount of assets throughout their lifetime—specifically to last them through retirement and to pass on those assets to their families and favorite charities or organizations.

According to the SEC, individuals over the age of 50 hold 77 percent of financial assets; the retirement assets of people age 65 or older account for 43.8 percent of all household financial assets; and the net worth of households headed by people age 65 or older totaled approximately $17.2 trillion.[30]

Fraudsters and bad actors see this type of wealth as a free market—one that is particularly easy to manipulate given the cognitive and physical ailments that render their targets unable to make sound financial decisions. The fundamental change in contemporary retirement accounts has only accelerated elder financial exploitation.

In the past 25 years, businesses and organizations have retreated from providing defined-benefit pensions. As a result, many workers found themselves thrust into 401(k)s and other defined-contribution retirement plans. These plans have placed the onus on American workers to control their contribution amount and provided them with more leeway in determining how to invest their contributions. This responsibility extends into retirement, where an individual continues to control the investment strategy and, more importantly, determines how much to withdraw for monthly expenses.

The fundamental change in contemporary retirement accounts has only accelerated elder financial exploitation.

As retirees grow older and their physical and mental health degrades, they are more vulnerable to common scams levied against the elderly. Or, they turn to their close friends and family to help them manage everyday expenses, opening them up to exploitation based on the abuse of power of attorney and legal guardianship.

Government and Regulator Protections

Policymakers have long diagnosed elder financial exploitation as a serious and growing concern in the United States. But what about the very institutions that create the infrastructures that make this particularly abhorrent form of fraud possible? The truth is, they've acted as stringently as any other entity to put laws, policies, and consumer protection programs in place to combat the epidemic.

Recent Measures

In March 2020, the Department of Justice (DOJ) and Attorney General William P. Barr announced that the prevention and disruption of transnational elder fraud would be one of the department's four primary goals. The decision to expand the net from domestic to transnational cases sprouted from the rise of "foreign-based fraud schemes that victimize seniors in large numbers."[31]

Barr's announcement followed the creation of the Transnational Elder Fraud Strike Force in June 2019. The Strike Force—which includes the DOJ's Consumer Protection branch, six U.S. Attorney's Offices, FBI Special Agents, and Postal Inspectors, among others—prosecuted over a quarter of those charged in what the DOJ calls coordinated sweeps of elder fraud cases.[32]

These sweeps began in 2018 and the DOJ announced that U.S. Attorney's Offices charged more than 400 fraudsters by the end of its latest sweep in March 2020, which it says were responsible for over a billion dollars in losses. This is a spike from its previous two sweeps in 2018 and 2019, which resulted in 200 and 260 charges respectively.[33] [34] In 2020, the department also published a website that tracks elder fraud cases as well as districts that have implemented prevention outreach programs.

The Senior Safe Act

In May 2018, President Trump signed into law the Senior Safe Act. The Act was part of a bi-partisan banking reform package, and it enabled financial institutions and trained financial professionals—like registered financial advisors and investment advisors—to report any suspected cases of fraud to law enforcement without worrying about being sued.

Prior to the passage of the Senior Safe Act, these parties could be held liable for any false claims of fraud or elder financial abuse, or for violating privacy requirements. The stipulation that the individuals reporting these suspected cases must be trained 1) limits any false claims and 2) equips financial institutions and professionals with the skills to recognize early warning signs and identify common scams.

The Elder Abuse Prevention and Prosecution Act

Just one year earlier in October 2017, President Trump signed into law the Elder Abuse Prevention and Prosecution Act. The Act's sole focus is to prevent elder abuse and exploitation, and it laid out a strategic plan with a multi-pronged approach to do so. Key mandates include: [35]

- The designation of an Assistant United States Attorney to serve as an Elder Justice Coordinator in every federal judicial district and help with prosecutions
- The designation of an Elder Justice Coordinator to serve the Bureau of Consumer Protection and expand elder protections
- The requirement that the DOJ report and make widely available elder abuse cases and investigations
- The requirement that the Department of Health and Human Services report and provide data for cases referred to Adult Protection Services
- The requirement that the Office for Victims of Crime report statistics which include elderly victims of crime to Congress
- The enforcement of harsher penalties for cases of interstate fraud that includes an elderly victim, among other criteria

Many of the law's provisions have been implemented and the result of the coordinated effort is visible in the DOJ's annual prosecution sweeps.

State lawmakers have also recognized the financial threat to senior citizens in their communities.

State-Level Efforts

State lawmakers have also recognized the financial threat to senior citizens in their communities, and they've collaborated with financial industry regulators to pass meaningful legislation.

In December 2015, the North American Securities Administrators Association's (NASAA) Committee on Senior Issues and Diminished Capacity submitted its board-approved, proposed Model Act to Protect Vulnerable Adults from Financial Exploitation (Model Act) to its membership. A key component of NASAA's mission is to protect investors from fraud, and the association represents state regulators in the U.S. Since the submission of its Model Act, 27 states have passed legislation or regulations based on its provisions.[36]

Similar to the Senior Safe Act, NASAA's Model Act pushes financial institutions and qualified financial professionals to report suspected cases of fraud to Adult Protective Services (APS) and state securities regulators. The Model Act also protects the individuals reporting these cases from administrative and civil liability. However, The Model Act goes further, calling for financial institutions and professionals to:

- Disclose suspected fraud to pre-determined third parties;
- Delay disbursements suspected of facilitating fraud for 15 days;
- Comply with requests for information from APS or law enforcement related to attempted or suspected elder fraud.[37]

Both the Model Act and lawmakers' acknowledgement of the growing threat of financial elder exploitation led to a spike in the number of bills introduced between 2014 and 2018.[38] According to the National Conference of State Legislatures (NCSL), 30 state statutes specifically defined the crime and more than 41 states have implemented legislation that imposes harsher criminal penalties to help fight elder financial exploitation,[39] including:

- In Idaho, it's a felony if a fraudster exploits a senior for more than $1,000 in monetary damages.[40]
- In Alabama, statute of limitations for elder financial exploitation was increased to five years from the date that fraud was discovered instead of five years from the date it occurred.[41]
- In New Hampshire, elder financial exploitation is

a Class A felony if the value of "funds, assets, or property is $1,500 or more." [42]

- In Vermont, if the exploitation is less than $500, the penalty is 18 months in prison and a $10,000 fine. If it's more than that, the penalty jumps to 10 years.

NCSL also reported that 14 states, Washington, D.C., and Guam passed statutes that require financial institutions to report suspected elder financial exploitation. Furthermore, 25 states implemented the Uniform Power of Attorney Act, which allows financial institutions to refuse the power of attorney if they suspect elder fraud or if the principal has reported elder fraud to APS or another government agency.[43]

Agency and Industry Efforts

NASAA isn't the only regulator to join the fight. In February 2018, the broker-dealer regulatory agency FINRA implemented two rule changes that represented the authority's "first uniform, national standards to protect senior investors":[44]

- The first rule requires broker-dealers to make a good faith attempt at establishing a "trusted contact" for every account. This helps firms better handle customer accounts and protect their assets against elder fraud attempts.
- The second rule allows member firms to place a temporary hold on the payment of funds or securities if they believe it's connected to financial exploitation, as well as notify the established "trusted contact." It also provides the firm and their employees a safe harbor from FINRA rules as they investigate the case, reach out to account holders or their designated contacts, and notify the proper authorities.

In 2020, FINRA proposed a rule targeting brokers who take advantage of their clients. While it's common for brokers to develop lasting relationships with their clients that verge on the familial, some bad actors have used their status of power of attorney in order to benefit financially. The proposed rule, if approved, will limit—but not outright prohibit—brokers from being named "beneficiary, executor, or trustee, or hold a power of attorney for a customer." [45] This limitation would protect investors by calling for member firms to look more closely at the relationship between the broker and their client in order to ward off any possible misconduct or exploitation.[46]

Much like NASAA's Model Act, these rules enable broker-dealers to identify suspected elder financial exploitation and protect vulnerable investors. Although these are national standards, they only apply to brokerage accounts and broker-dealers who are FINRA member firms.

Another notable agency initiative is the Administration for Community Living's (ACL) National Adult Maltreatment Reporting System (NAMRS). Made possible by funds from the DOJ's Elder Justice Initiative, NAMRS centralizes Adult Protective Services' (APS) quantitative and qualitative data on investigations into elder abuse, which includes elder financial exploitation. Launched in 2016, NAMRS is the first national reporting system for APS programs and the information reported will help "inform prevention and intervention practices at all levels of the maltreatment field." [47]

The Future in the Fight Against Elder Financial Exploitation

The ACL's reporting system is a strong representation of how governments, agencies, and financial institutions can come together to combat elder fraud in the future. The national, multi-agency effort saw voluntary data submission from 54 out of 56 APS reporting jurisdictions. Of these, 24 reported specific case-level data and 20 provided aggregated APS data, which included information on clients, victims, and perpetrators.[48]

NAMRS has since released three annual reports, and its efforts are largely possible because of rapid advancements in technology. These advancements are a key part of the way forward when it comes to reporting and preventing elder financial exploitation, opening up the possibility of treating elder financial exploitation with a holistic, tech-driven approach.

A Comprehensive, Integrated, and Systemic Solution

A white paper by the U.S. Securities and Exchange Commission's Office of the Investor Advisor Advocate theorizes just this kind of approach. Based on ideas presented in a discussion paper by the Federal Reserve Bank of Philadelphia and an op-ed by two physicians with the Institute of Medicine Committee on the Public Health Dimensions of Cognitive Aging,[49 50] the paper proposes building two "comprehensive, integrated, and systemic" communication platforms run by a neutral government entity and bolstered by artificial intelligence and predictive analytics:[51]

- The first system would enable financial institutions across the U.S. to communicate with one another directly. Since most people hold accounts at different banks, credit unions, and brokerage houses, this system would enable one institution to warn other institutions of suspected elder fraud, empowering them to take quick action to mitigate monetary losses.
- The second system would integrate into the first, incorporating financial institutions, doctors, and social workers onto one network. Financial institutions, who often have advanced technology platforms, are a good front line for reporting possible cases of diminished financial capacity. Doctors, who have the ability to diagnose Alzheimer's and other related dementias, can work with financial institutions and implement interventions. And social workers, who deal strictly with vulnerable populations, can assist with the intervention process, working with the victims and court systems.

The SEC's white paper acknowledges the privacy and security risks involved with such a comprehensive solution. To bypass these risks, it suggests leveraging a database previously put into place like the U.S. Department of Treasury Financial Crimes Enforcement Network's Suspicious Activity Reports (SARs) database or emerging distributed ledger technology with a permissioned block chain that all parties could report to safely.

Available FinTech Tools

Integrated communications systems like those mentioned above, while not impossible, may seem far off. In the interim, financial technology (FinTech) companies have entered the world of elder financial exploitation prevention with a suite of tools and apps that are available right now. The following are just some of these types of applications:

- **Whealthcare Planning** has a planning tool that focuses solely on assisting aging individuals. The tool helps seniors and their families develop a plan to transition their decision-making authority, and identify traits or behaviors that signal diminished financial capacity. It also connects them to financial professionals who use a commercial version of this tool to aid in planning.
- **EverSafe** developed an account-monitoring tool that analyzes all the user's financial accounts and identifies any spending, investments, or payments that are out of the norm. Once identified, the tool alerts the trusted contacts programmed by the user and provides resources for victims and their family or close friends to resolve the suspected fraud. While the tool monitors all types of accounts, EverSafe claims to have specialized algorithms built in for seniors that supports "power of attorney's, guardians, conservators, and trusts."[52]

FinTech companies have entered the world of elder financial exploitation prevention.

- **True Link Financial** offers a prepaid Visa card that families can pre-set with specific spending amounts and limit where cardholders can spend those funds. Family members and aging individuals can also provide these cards to caregivers who make purchases on their behalf.
- **Everplans** offers an online document storage database to help seniors collect and protect important documents. The service includes step-by-step guidance on identifying documents, account information, online account logins and passwords, insurance policies, and more. For seniors, the tool is particularly effective because it lets them determine who can access the database and when.

These are just a few of the new technologies seniors and their families can leverage to protect their money and assets. However, as with most new technology, these tools are largely untested and the opportunity for bad actors to misuse this information or for cyber attackers to steal private account information always exists.

Furthermore, technology will never replace the importance of being present in the lives of elders to stay apprised of possible signs of exploitation. At the very least, these tools help seniors and their families think more deeply about what they can do to protect themselves as they age and their ability to manage their finances diminishes.

Protecting Yourself and Your Loved Ones

How to Avoid Exploitation

The factors that make seniors the target of financial exploitation also make it difficult to help them recognize the warning signs. Functional and cognitive impairment offsets the impact of education initiatives—which is the key way to combat most instances of financial fraud.

Consequently, the best way for aging adults to protect themselves is through preventative planning. If you're in or nearing retirement, here are some tips that can help you protect yourself and your assets from fraudsters:

1. **Create a professional network of advisors.** Speak with your banker, financial advisor, tax, and legal advisor early on to create a plan that will help protect your assets as you advance in age.
2. **Legalize the process for major decisions.** Speak with a legal advisor to set up a power of attorney (POA) and appoint a trusted family member, close friend, or organization to manage your affairs. Different POA documents can be created to designate a specific "agent" or "attorney-in-fact" for specific decisions. POA document types can cover general, special, health care, and durable considerations.
3. **Safeguard important financial documents.** Store your account statements, checkbooks, contracts, and other sensitive documents in a safe place. Also, shred any unneeded statements, receipts, cards, etc., before throwing them away.
4. **Guard your personal financial information.** Only provide information like your Social Security number, account numbers, and credit and debit card numbers to people in your trusted network. Most importantly, never give this information out over the phone. Many fraudsters have the capability to transmit incorrect caller ID information to your phone (known as "spoofing") to trick you into believing the call is coming from a trustworthy source, such as your bank or a government agency.
5. **Hold off on large financial decisions.** Elder exploitation and most cases of financial fraud work because they pressure the victim to act quickly. Demand the details of any financial decision or transaction in writing; get a second opinion from another person, company, or service provider; and check references before hiring anyone.

The best way for aging adults to protect themselves is through preventative planning.

How to Protect Your Loved Ones

Despite its status as a burgeoning public health crisis, elder financial exploitation has still managed to fly under the radar of the general public. Furthermore, there still seems to be a large deficiency in the available data, and the data that does exist is either region-specific or incomplete due to a lack of interagency collaboration on a national level.

However, the issue is steadily gaining more and more attention—both from the media (as the stories of Marjorie, Judy, and Brooke illustrate), from governmental agencies like the SEC, and from public agencies, which conduct investigations and studies like those referenced in this paper. This attention also serves a greater purpose: to increase awareness.

But what happens when those targeted are already struggling with diminished cognitive function? The onus of education and protection falls on family, close friends, and a surrounding support network.

If you are the caretaker for a close friend or family member, here are some things you can do to protect them from financial exploitation:

1. **Get the right legal documents in place.** Doing so will give you and other family members the ability to help your loved one. From health care decisions to asset distribution, there are documents that you and your loved one can sign before cognitive or physical deterioration begins, including: a will, a trust, a health care proxy, a Health Insurance Portability and Accountability Act (HIPAA) release form, and the various power of attorney documents mentioned in the previous section. By assigning specific functions to certain family members and deciding whether they can act alone or together, these documents can help relieve you of making important, life-changing decisions during stressful and emotionally charged moments.
2. **Combine accounts to streamline finances.** Most people are able to maintain multiple bank, brokerage, and retirement accounts and keep track of the money coming in and out on a monthly basis. However, managing several accounts for another person—whether it's your parent, a loved one, or a close friend—can be much more difficult since you don't have a deep level of insight into their day-to-day finances. Helping your loved one consolidate their accounts and having them designate you as a trusted contact can help you keep track of regular deposits, distributions, and charges. However, be sure to do your homework. Withdrawing money early from many bank products, like certificates of deposit, can result in penalties. And incorrectly rolling over retirement accounts like 401(k)s and IRAs can result in additional taxes as well as penalties.
3. **Monitor their mental health.** Many cases of elder financial exploitation involve individuals in isolation—particularly cases that include scammers randomly targeting the elderly on a large scale. For this reason, it's important to call and visit your loved ones regularly. While doing so, be sure to look out for any telltale signs of cognitive impairment or financial exploitation. If you are not a trustee on their accounts, or already managing their finances, ask them if they're having any financial troubles or need any help paying bills. If your loved one has a caregiver, engage with them on a regular basis and ask for updates on how your loved one is doing. Oftentimes, a scammer will target individuals who live in isolation, and maintaining a presence in your loved one's life will thwart any attempts at financial exploitation.

While these recommendations may seem invasive to anyone who has been able to manage their own affairs, there's really no downside. Alzheimer's spreads quickly: after diagnosis, individuals generally live four to eight years. In the early stage, close friends and family members can recognize the signs of cognitive decline easily. But the middle stage—which is when individuals begin to have difficulty performing routine financial transactions—quickly follows.[53] Because of this, it's important to recognize the warning signs of dementia and possible financial exploitation early on, and remaining in close contact with your loved ones can help.

The Red Flags of Financial Exploitation

Victims of elder fraud often exhibit similar behaviors when being exploited, and it's important for you to know what those behaviors are. The following are red flags that may indicate your loved one is being exploited:

- **Difficulty recalling financial decisions.** If your loved one is unable to recall signing a specific check, withdrawing a large sum of money, using credit cards more frequently, or altering their "authorized user" lists, they may be suffering from more than just cognitive impairment. As their caretaker, do not let these matters drop easily. Instead, try to help your loved one retrace when or why they took these actions. Doing so can help you quickly find out if they're being exploited.
- **Unplanned home-improvement projects.** Cognitive decline and physical frailty make seniors good targets for scammers. If your loved one is having a major home repair you didn't know about, they may be the victim of unscrupulous contractors selling an unneeded repair. To head off this type of situation, speak with your loved one regularly and ask if they need any repair work done around their home.
- **New additions to a social group.** Despite your best efforts, elderly people—specifically those without a spouse—will often develop feelings of loneliness and isolation. Scammers often prey on those feelings by offering a false sense of companionship. If your loved one often talks about someone you're unfamiliar with, be sure to ask questions to find out if their new acquaintance has good intentions. Also, continue to follow up on the status of their relationship regularly.
- **Sudden change in behavior.** Exploited seniors will often exhibit noticeable changes in behavior when it comes to buying decisions and interpersonal relationships. If your loved one hesitates to buy essential everyday purchases like clothes and food items; misses regular bill payments; becomes more moody; stops communicating with friends and family; and/or appears visibly anxious or nervous when speaking on the phone, these can be red flags of financial exploitation or cognitive degeneration.
- **Suspicious behavior among relatives.** Perpetrators of elder financial exploitation come from diverse backgrounds. Unfortunately, close relatives are often the perpetrators of elder fraud. According to the *New England Journal of Medicine*, based on available evidence, the family members often tend to be male, either a child or spouse of the victim, have a history of substance abuse and run-ins with law enforcement, and have mental/physical health issues and financial problems.[54] If a close relative of your loved one fits this profile and suddenly starts making out-of-the-ordinary purchases, they might be financing these purchases through exploitation.

While these red flags may give you some indication of elder fraud, they're not hard and fast rules. Often, the signs above can be a result of progressing cognitive decline or mere coincidence. In any case, constantly communicating with your loved one and following up on any suspicious behavior can help ensure their protection.

Reporting Elder Financial Exploitation

Under normal circumstances, victims of fraud don't hesitate to confront their perpetrator and contact law enforcement. This isn't the case with elder financial exploitation. In fact, for every one documented case, 44 cases go unreported.[55] This underreporting leads to the many gaps in data, which is one of the key barriers to combatting this phenomenon.

Why don't victims report their abusers? In the case of victims like Brooke Astor, the perpetrators may be a family member. Many victims of financial exploitation at the hands of a family member fear that if they contact the authorities, the fallout of getting their relatives into legal trouble could damage the family dynamic.

In other cases, the perpetrator may depend on their elder family member financially because of mental or physical disability. In this scenario, the victim and the perpetrator may have a codependent relationship. The victim needs the relative committing the exploitation to help them with day-to-day life, and the perpetrator is dependent on the victim for financial assistance. This makes it extremely difficult for the victim to report their relative and risk upsetting a complicated, but harmful, living situation.

In cases like Marjorie and Judy's, whose perpetrators were not relatives, victims may not report because they're ashamed they were tricked out of so much money. Or, because of their cognitive state, they simply don't realize they are a victim. Another reason, which public health and government officials are working to combat, is that victims simply don't know who to call.

Underreporting leads to the many gaps in data, which is one of the key barriers to combatting this phenomenon.

Resources for Victims of Elder Financial Exploitation

If you or a close family member or friend falls victim to elder financial exploitation, it's important to act quickly and contact the proper authorities. Many federal, state, and local government agencies have recently ramped up their education efforts to emphasize the importance of reporting and which agencies to report to. Below is a list of notable nationwide agencies that help seniors and their families report cases of financial exploitation:

- **The U.S. Department of Justice's Elder Justice Initiative (EJI)** supports enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target senior citizens. Their website lists two non-emergency hotlines for elders to find help: The Eldercare Locator helpline, 1-800-677-1116, and The Victim Connect hotline, 1-855-4VICTIM. EJI's website also has an Elder Abuse Resource Roadmap that helps seniors and their families find the right assistance based on the type of exploitation and perpetrator.
- **The National Adult Protective Services Association** also has an online resource locator that connects visitors with their state's Adult Protective Services agency to report financial exploitation. It provides county-specific phone numbers and office addresses.
- **The Financial Industry Regulatory Authority (FINRA)**, the government-authorized nonprofit that oversees broker-dealer activities to protect investors, has a helpline for seniors who have questions about their brokerage accounts or investments: 844-57-HELPS (844-574-3577). According to FINRA, between April 2015 and February 2018, the helpline received over 12,000 calls and led to the recovery of $5.3 million in voluntary reimbursements.[56] FINRA's website also has a hub for seniors with more information on how investment professionals help detect and report elder financial exploitation.

After reporting your case, be sure to contact each one of the financial institutions where you or your loved one have an account to notify them of your attack. They can monitor the accounts in question or suggest additional ways you can help protect accounts in the future.

If you feel your instance of fraud was part of a larger scam, you should report it to the Federal Trade Commission. Doing so will help prevent others from falling for the same scam. Also, be sure to sign up for the FTC's Do Not Call Registry to prevent inbound phone calls from possible fraudsters.

Lastly, it's important to remember that you or your loved one are not at fault. Elder financial exploitation is pervasive for a reason: scammers target individuals who don't have the ability to protect themselves.

Summary

The cases of Marjorie, Judy, and Brooke at the beginning of this paper illustrate the real impact of elder financial exploitation. They are proof-positive that this form of elder abuse is a public health crisis that has only continued to grow throughout the years.

However, it was only recently that governments, public agencies, physicians, and scholars sought to define this "virtual epidemic." In doing so, they were able to implement awareness campaigns that have led to more accurate reporting.

The costs of elder fraud are substantial—both in personal financial losses and in the mental impact on victims. Yet, despite best efforts at reporting, the estimated financial losses and number of victims are likely much less than the true amount. This may be because, until recently, investigators only focused on traditional forms of elder abuse.

Despite the gaps in data, it's clear that elder financial exploitation is a growing concern. In fact, investigators

Making the definition, red flags, and places to report elder financial exploitation common knowledge will go a long way in protecting one of our most vulnerable populations.

and scholars have recently begun to focus on outlining why seniors citizens are more susceptible to this type of fraud in order to create awareness campaigns and bolster prevention efforts.

These efforts have spilled over into the public and private sectors. The federal government, state lawmakers, and financial sector associations and authorities have passed legislation and rulings to create interagency task forces that prosecute scammers, hand down more severe punishments to perpetrators, and enable financial institutions and professionals to report and prevent suspected fraud attempts.

These same public and private sectors have begun to implement and theorize technology-driven tools and databases to fight elder financial exploitation. One such proposal is a platform that enables law enforcement agencies, physicians, social services agencies, and financial institutions to report and exchange crucial data that can help identify individuals susceptible to elder fraud, intervene when necessary, and limit the scope of damage upon occurrence.

Until these tools can safeguard the data needed to execute these processes, education and awareness programs are still the best means we have for preventing elder fraud. Making the definition, red flags, and places to report elder financial exploitation common knowledge will go a long way in protecting one of our most vulnerable populations.

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