



October 21, 2015

TO: Members, Subcommittee on Commerce, Manufacturing, and Trade

FROM: Committee Majority Staff

RE: Hearing entitled “Fighting Fraud Against the Elderly, an Update”

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## **I. INTRODUCTION**

On October 23, 2015, at 9:15 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Commerce, Manufacturing, and Trade will hold a hearing entitled “Fighting Fraud Against the Elderly, an Update.”

## **II. WITNESSES**

The Subcommittee will hear from the following witnesses:

### First Panel

- Daniel Kaufman, Deputy Director, Bureau of Consumer Protection, Federal Trade Commission;
- Stacy Canan, Deputy Director, Office of Financial Protection for Older Americans, Consumer Financial Protection Bureau; and,
- Robert F. Harris, Cook County Public Guardian.

### Second Panel

- Charles Wallace, Associate Professor and Undergraduate Program Director, Computer Science, Michigan Technological University; and,
- Tobie Stanger, Senior Editor, Consumer Reports.

## **III. BACKGROUND**

From 2000 to 2010, there was a 30 percent jump in the number of Americans 65 and older using the Internet.<sup>1</sup> In 2013, 71 percent of the 65-and-older group reported having a

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<sup>1</sup> <http://www.census.gov/newsroom/press-releases/2014/cb14-124.html>

computer in their home.<sup>2</sup> A report published by the U.S. Census Bureau found that the top reason Americans over 65 use the Internet is to send and read e-mail.<sup>3</sup> While older Americans are less likely to use the Internet for online banking, news, travel arrangements, and social networking than younger Americans, adoption continues to grow and it is reasonable to expect these trends to continue. Spending more time online raises the risk profile for older Americans because the Internet provides another method for fraudsters to reach the elderly as disguise themselves as legitimate actors.

Elder abuse includes the “illegal or improper use of an older adult’s fund, property, or assets.”<sup>4</sup> Financial fraud against the elderly exposes a vulnerable population to a string of serious consequences jeopardizing generally substantial, but limited, resources.<sup>5</sup>

In 2014, the Federal Trade Commission’s (FTC) Consumer Sentinel Network (CSN) collected over 1.5 million fraud complaints; 46 percent of those fraud complaints included the initial method of contact with the fraudster: 54 percent reported a telephone call, 23 percent reported e-mail, and 4 percent reported physical mail.<sup>6</sup> Twenty-eight percent of all fraud complaints to CSN are reported by consumers 60 years old and above.<sup>7</sup> The 65-and-older population is estimated to include over 46.2 million Americans in 2014, up from 44.7 million in 2013.<sup>8</sup>

In 2011, financial exploitation was estimated to cost victims and their families at least \$2.9 billion dollars, up from \$2.6 billion in 2008.<sup>9</sup> The same study found that 51 percent of fraud incidents against the elderly were perpetrated by strangers. A Government Accountability Office (GAO) report published in 2013 found that financial exploitation of seniors cost older adults (including their children) nearly \$3 billion in 2010 alone.<sup>10</sup> A 2010 survey found 1 in 3 seniors

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<sup>2</sup> <http://census.gov/content/dam/Census/library/publications/2014/acs/acs-28.pdf>

<sup>3</sup> Loraine A. West, Samantha Cole, Daniel Goodkind, and Wan He, “65+ in the United States: 2010” U.S. Census Bureau, p. 152-153, June 2014 <http://www.census.gov/content/dam/Census/library/publications/2014/demo/p23-212.pdf>

<sup>4</sup> <http://www.sec.gov/news/press/2013/elder-abuse-guidance.pdf>

<sup>5</sup> <http://www.napsa-now.org/get-informed/what-is-financial-exploitation/>. See also “Lies, Secrets, and Scams: How to Prevent Elder Abuse” Consumer Reports, November 2015, p. 29, available at <http://www.consumerreports.org/cro/consumer-protection/preventing-elder-abuse>.

<sup>6</sup> <https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2014/sentinel-cy2014-1.pdf>

<sup>7</sup> CNS does not report fraud statistic broken down by consumer age. Extrapolation of the CSN report data would suggest fraud complaints by individuals 60 and older rose at least 47% between 2012 and 2014, from 116,000 to 171,000. See “Lies, Secrets, and Scams: How to Prevent Elder Abuse” Consumer Reports, November 2015, p. 29, available at <http://www.consumerreports.org/cro/consumer-protection/preventing-elder-abuse>.

<sup>8</sup> <http://www.census.gov/newsroom/facts-for-features/2015/cb15-ff09.html>

<sup>9</sup> The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America’s Elders. June 2011. MetLife Mature Market Institute. <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf>

<sup>10</sup> U.S. Government Accountability Office, ELDER JUSTICE: National Strategy Needed to Effectively Combat Elder Financial Exploitation, GAO-13-110, at 1 (Nov. 2012). <http://www.gao.gov/products/GAO-13-110>. See “Fraud on the Elderly: A Growing Concern for a Growing Population” Subcommittee on Commerce, Manufacturing, and Trade, May 16, 2013, <http://energycommerce.house.gov/hearing/fraud-elderly-growing-concern-growing-population>.

was being actively pitched by strangers asking for money, offering lotteries, and “other schemes.”<sup>11</sup> The same study found that 44 percent of adults 65 years of age or older answered 2 out of 4 questions wrong about “basic investment knowledge.” The lack of recent non-anecdotal data about fraud against the elderly remains a challenge in this area.

The National Adult Protective Services Association (NAPSA) estimates 1 in 5 adults aged 65 or older reporting they have been taken advantage of financially and only 1 in 44 cases of financial abuse are reported to authorities.<sup>12</sup> The risks for seniors being duped, swindled, and tricked cannot be underestimated.

NAPSA publishes commonly reported types of fraud against the elderly reported to Adult Protective Services agencies around the country, which include:<sup>13</sup>

- *Theft*: involves assets taken without knowledge, consent or authorization; may include taking of cash, valuables, medications other personal property.
- *Fraud*: involves acts of dishonestly by persons entrusted to manage assets, but appropriate assets for unintended uses; may include falsification of records, forgeries, unauthorized check-writing, and *Ponzi*-type financial schemes.
- *Lottery scams*: involves payments (or transfer of funds) to collect unclaimed property or “prizes” from lotteries or sweepstakes.
- *Electronic*: includes “phishing” e-mail messages to trick persons into unwittingly surrendering bank passwords; may include faxes, wire transfers, telephonic communications.

There is a significant risk for exploitation of the elderly given their relative financial situation and potential knowledge gap on known scams perpetrated. Consumer Reports recently highlighted the educational efforts of the Stop Senior Scams Acting Program.<sup>14</sup> The actors, ages 60 to 97, are based in Los Angeles, California and travel to different venues including churches and community centers to perform skits about popular scams targeting the elderly.

#### *Federal Agency Activity*

The Federal Trade Commission launched the Pass It On campaign to educate the general public, potential victims, friends, and family about identity theft, imposter scams, charity fraud, health care scams, paying too much scams, and “You’ve Won” scams.<sup>15</sup> In the last 2 years, the FTC has also brought several enforcement actions to stop scams including phone health care

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<sup>11</sup> “Survey: 1 Out of 5 Older Americans Are Financial Swindle Victims, Many Adult Children Worry About Parents’ Ability to Handle Finances” PR Newswire, 2010, available at <http://www.prnewswire.com/news-releases/survey-1-out-of-5-older-americans-are-financial-swindle-victims-many-adult-children-worry-about-parents-ability-to-handle-finances-96395079.html>.

<sup>12</sup> <http://www.napsa-now.org/wp-content/uploads/2015/06/Press-Release.pdf>

<sup>13</sup> <http://www.napsa-now.org/get-informed/what-is-financial-exploitation/>

<sup>14</sup> “Lies, Secrets, and Scams: How to Prevent Elder Abuse” Consumer Reports, November 2015, p. 29, available at <http://www.consumerreports.org/cro/consumer-protection/preventing-elder-abuse>. See <https://www.youtube.com/watch?v=weGG-nKA7vI>.

<sup>15</sup> <http://www.consumer.ftc.gov/features/feature-0030-pass-it-on>

“discount” schemes,<sup>16</sup> telemarketing scams,<sup>17</sup> and deceptive robocalls pitching “free” medical alter systems.<sup>18</sup>

In June 2013, the Consumer Financial Protection Bureau (CFPB) worked with the Federal Deposit Insurance Corporation (FDIC) to produce an educational program for older adults, their caregivers, advocacy organizations, law enforcement, and others called Money Smart for Older Adults.<sup>19</sup> The goal of the program is to teach older Americans and those in their lives “how to prevent, identify and respond to elder financial exploitation, plan for a secure financial future, and make informed financial decisions.”<sup>20</sup> That same year the CFPB released Managing Someone Else’s Money Guides to educate those in a fiduciary position to an elderly Americans including those named in a power of attorney, court-appointed guardians, trustees, and government fiduciaries.<sup>21</sup>

In 2013, the Board of Governors of the Federal Reserve System, Commodity Future Trading Commission, CFPB, FDIC, FTC, National Credit Union Administration, Office of the Comptroller of the Currency, and Securities and Exchange Commission issued staff guidance to clarify that the exemptions included in the Gramm-Leach-Bliley Act privacy provisions allow reporting suspected financial fraud or exploitation of seniors without complying with the notice and opt-out requirements.<sup>22</sup>

#### *State Activity*

The National Conference of State Legislatures reports that 17 States enacted bills addressing some component of elder financial abuse.<sup>23</sup> For example, Maryland now requires those engaged in money transmission to train agents annually on how to recognize and respond appropriately to financial exploitation and abuse of older Americans, and Maine added financial exploitation to its definition of elder abuse. Delaware passed legislation allowing financial institutions to freeze transactions in the case of suspected abuse and report to the appropriate authorities. Missouri enacted a similar law with freeze provisions for stock brokers in cases of suspected elder fraud, and New York is considering legislation in this area for banks.

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<sup>16</sup> [https://www.ftc.gov/news-events/press-releases/2014/09/ftc-stops-marketers-phony-health-care-discount-schemes-directed?utm\\_source=govdelivery](https://www.ftc.gov/news-events/press-releases/2014/09/ftc-stops-marketers-phony-health-care-discount-schemes-directed?utm_source=govdelivery)

<sup>17</sup> [https://www.ftc.gov/news-events/press-releases/2015/03/court-orders-ringleader-scam-targeting-seniors-banned?utm\\_source=govdelivery](https://www.ftc.gov/news-events/press-releases/2015/03/court-orders-ringleader-scam-targeting-seniors-banned?utm_source=govdelivery)

<sup>18</sup> [https://www.ftc.gov/news-events/press-releases/2015/07/ftc-florida-attorney-general-sue-stop-deceptive-robocalls?utm\\_source=govdelivery](https://www.ftc.gov/news-events/press-releases/2015/07/ftc-florida-attorney-general-sue-stop-deceptive-robocalls?utm_source=govdelivery)

<sup>19</sup> <http://www.consumerfinance.gov/newsroom/fdic-and-cfpb-collaborate-to-develop-a-tool-for-older-adults-to-prevent-financial-exploitation/>

<sup>20</sup> *Id.*

<sup>21</sup> <http://www.consumerfinance.gov/managing-someone-elses-money>

<sup>22</sup> <http://www.sec.gov/news/press/2013/elder-abuse-guidance.pdf>

<sup>23</sup> <http://www.ncsl.org/research/financial-services-and-commerce/financial-crimes-against-the-elderly-2014-legislation.aspx#Resources>

#### **IV. ISSUES**

The following issues may be examined at the hearing:

- How are local, State, and Federal agencies working together to address fraud against the elderly?
- What enforcement challenges do local, State, and Federal agencies face in combating fraud against the elderly?
- With more and more Americans 65 and older online, what educational tools and resources are available to educate the public to recognize and avoid fraud?

#### **V. STAFF CONTACTS**

If you have any questions regarding this hearing, please contact Paul Nagle or Melissa Froelich of the Committee staff at (202) 225-2927.