

Preventing and Addressing Elder Financial Exploitation: Tips and Tools from the Consumer Financial Protection Bureau



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Providing Legal Support to the
Aging Advocacy Network

- <http://www.nlrc.aoa.gov/>
- Collaboration developed by the Administration for Community Living/ Administration on Aging between the National Consumer Law Center, National Senior Citizens Law Center, American Bar Association Commission on Law and Aging, Center for Elder Rights Advocacy, and the Center for Social Gerontology
- See upcoming trainings, conferences, and webinars
- Request a training
- Request consulting
- Request technical assistance
- Access articles and resources



Presenter – Beverly Yang, J.D.

- A Policy Analyst with the Consumer Financial Protection Bureau's Office for Older Americans.
- Before joining the CFPB, Beverly served low-income and other vulnerable populations as a legal aid attorney and consumer law specialist with the Land of Lincoln Legal Assistance Foundation in Southern Illinois.
- At Land of Lincoln, Beverly helped to address the misuse of civil contempt actions in the collection of private debt.
- Beverly has also served on the Illinois State Bar Association's Council on Commercial Banking, Bankruptcy and Collections and its Standing Committee on Racial and Ethnic Diversity.



Presenter – Naomi Karp, J.D.,

- Is the Older Americans Senior Policy Analyst at the Consumer Financial Protection Bureau's Office for Older Americans working on elder financial exploitation and retirement planning issues.
- Her work has a particular focus on the impact of diminished decision-making capacity on the financial security of older adults.
- From 2005 to 2011, Karp was a Senior Policy Advisor at AARP's Public Policy Institute where she conducted research and supported advocacy regarding elder abuse, guardianship, advance care planning, and other legal rights issues.
- From 1988-2005, she served on the staff of the ABA Commission on Law and Aging, and previously was a legal services attorney. She holds a JD from Northeastern University School of Law.



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Consumer Financial Protection
Bureau, Office for Older
Americans

National Legal Resource Center
Webinar Series



Disclaimer

- *This presentation is being made by a Consumer Financial Protection Bureau representative on behalf of the Bureau. It does not constitute legal interpretation, guidance or advice of the Bureau.*
- *Note: This document was used in support of a live discussion. As such, it does not necessarily express the entirety of that discussion nor the relative emphasis of topics therein.*

Question #1

- Who's on the line? Do you work for.... (check all that apply)
 - a) A Title III-B legal services program or senior legal hotline?
 - b) LSC-funded organization?
 - c) Private elder law practice
 - d) Government agency?
 - e) Other non-profit?

Consumer Financial Protection Bureau (CFPB)

- Created in Dodd-Frank Wall Street Reform and Consumer Protection Act; launched July 2011
- Mission: make markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products
- Core functions: educate, enforce and study

CFPB Tools/Services for Consumers of All Ages

- Ask CFPB
 - Interactive online tool with answers to many questions regarding financial services and products
 - Can browse by topics, e.g. “fees” or “closing,” or by populations, like servicemembers, students, and older Americans
 - Under “older Americans” tag, find answers to questions about financial products and services, powers of attorney, accepting assistance with bill-paying and banking, and tips to avoid financial harm
 - <http://www.consumerfinance.gov/askcfpb/>



[HOME](#) > [ASK CFPB](#) >

ask cfpb



Auto loans



Bank accounts and services



Credit cards



Credit reports and scores



Debt collection



Money basics

Sort by: **most helpful** | most viewed | recently updated

BANK ACCOUNTS AND SERVICES

I would like to be able to have my friend or family member help with my bill-paying and banking. What are my options?

UPDATED 10/11/2013

You have several options, some of which involve opening specific types of checking accounts or creating specific legal documents that give another person the power to handle your money: Informal help with money management If you are still able to handle ...

Older Americans

joint account

convenience account

power of attorney (POA)

BANK ACCOUNTS AND SERVICES

Question #2

- Have you ever filed a complaint with the CFPB?
 - a) Yes, on behalf of a client or someone else
 - b) Yes, for myself
 - c) No, I didn't know about CFPB's complaint process
 - d) No, I didn't have the need to do so

CFPB Tools and Services, cont'd

- Consumer Complaints
 - CFPB accepts consumer complaints by phone, mail, fax, and through website
 - Currently handles complaints about credit cards, credit reports, debt collection, money transfers, mortgages, bank accounts and services, car loans, other consumer loans, private student loans and payday loans
 - CFPB forwards complaint to the company and works to get a response from them
 - If another government agency would be better able to assist, CFPB forwards the complaint and lets the consumer know
 - <http://www.consumerfinance.gov/complaint/>



Submit a complaint

Have an issue with a financial product or service? We'll forward your complaint to the company and work to get a response from them.

CHECK YOUR COMPLAINT STATUS

[Check status](#)

[First login?](#)

Para presentar una queja en español,
llamar al (855) 411-2372

Choose a product or service to get started

If you don't want to submit a complaint, you can [tell your story](#).

MOST COMMON



[Mortgage](#)



[Debt collection](#)



[Credit reporting](#)

OTHER PRODUCTS AND SERVICES



[Bank account or service](#)



[Credit card](#)



[Money transfer](#)



[Payday loan](#)



[Student loan](#)



[Vehicle or other consumer loan](#)

Submitting a complaint on someone's behalf

TIP 1:
Your contact information goes in the “My information” section

✓ What happened? ✓ Desired resolution 3. **My information** 4. Product information 5. Review

My contact information

Salutation (Optional)

First name *

Last name *

Suffix (Optional)

Mailing address *

Apartment, suite, building (Optional)

City *

State *

ZIP code *

United States

Phone (Optional)

Email *

TIP 2:
Be sure to enter your email address

Submitting a complaint on someone's behalf

TIP 3:
Only check
"Someone else"

I am filing on behalf of Myself Someone else
Filing on behalf of someone else may require signed, written permission.

Someone else

What is your relationship to this person? *

Choose...

Salutation (Optional)

First name *

Last name *

Suffix (Optional)

Mailing address *

Apartment, suite, building (Optional)

City *

State *

ZIP code *

United States

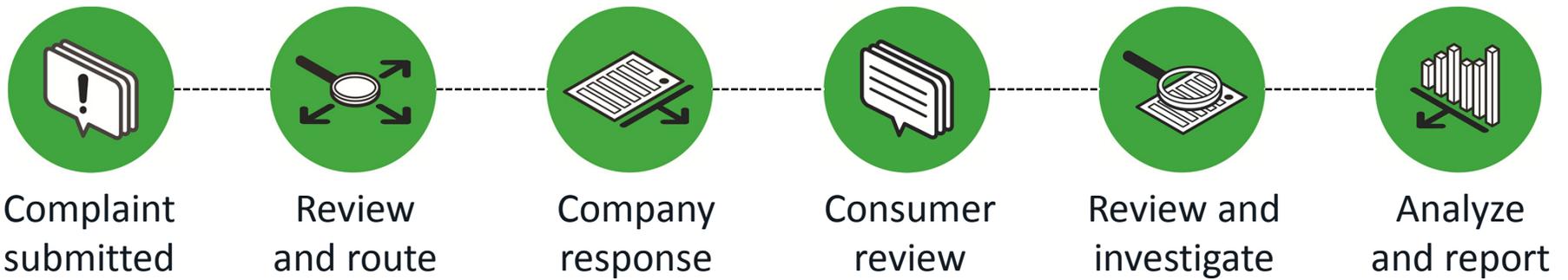
TIP 4:
Tell us your relationship to the
consumer

TIP 5:
Enter the
consumer's
contact
information here

Most advocates choose:

- Advocate
- Attorney
- Housing counselor

Complaint lifecycle



Office for Older Americans (OA)

- Mission: help consumers 62+ to get the financial education and training they need to:
 - Prevent unfair, deceptive and abusive practices aimed at seniors
 - Help seniors make sound financial decisions as they age.
- The only office in the federal government specifically dedicated to the financial health of seniors

Office for Older Americans, cont'd

- OA is:
 - developing education initiatives;
 - researching the best practices for educating seniors and other stakeholders about:
 - Protecting older Americans against unfair, deceptive and abusive practices, and
 - Enhancing later-life economic security.
 - coordinating efforts with federal and state regulatory agencies, and law enforcement; and
 - collaborating with community leaders and local organizations.

Background on Elder Financial Exploitation

- **Definition:** Illegal or improper use of an older adult's funds, property, or assets.
- The **most common form** of elder abuse—but only a small fraction of incidents are reported.
- **Perpetrators** include family members, caregivers, scam artists, financial advisers, home repair contractors, fiduciaries and others.
- **Attractive targets:** significant assets or home equity
- **Vulnerable** due to: isolation, cognitive decline, physical disability, health problems, recent loss of partner/family member/friend

FinCEN Advisory

- FinCEN (Treasury) published advisory in February, 2011
- Describes potential signs of elder financial exploitation that might trigger filing of a Suspicious Activity Report (SAR)
- Signs of abuse include:
 - Erratic or unusual banking transactions, or changes in banking patterns (e.g. frequent large withdrawals; debit transactions that are inconsistent for the older adult; uncharacteristic attempts to wire large sums of money)
 - Interactions with older adults or caregivers (e.g. caregiver or other individual shows excessive interest in older adult's finances or assets; new caretaker, relative or friend suddenly begins conducting financial transactions on behalf of older adult without proper documentation)

Question #3

- Can bank tellers tell (when they suspect financial exploitation)?
 - a) Federal privacy law prohibits financial institutions from reporting abuse without the consumer's consent
 - b) Federal privacy law allows financial institutions to report abuse to authorities when they suspect it
 - c) My state's privacy laws prohibit financial institutions from reporting suspected abuse of a customer without a subpoena
 - d) Don't know

OA Initiatives: Financial Institution Role in Reporting Exploitation

- PROBLEM:
 - Financial institution personnel observe signs that an older account holder may be the victim of financial abuse, but may be unsure whether federal privacy laws permit them to share their suspicions with government agencies.

Financial institution reporting, cont'd

- CFPB INITIATIVE
 - CFPB and seven other federal financial regulators issued Interagency Guidance on Sept. 24 on the Gramm-Leach-Bliley Act (GLBA) and reporting financial abuse of older adults.
 - Guidance clarifies that reporting suspected financial abuse of older adults to appropriate local, state, or federal agencies does not generally violate the privacy provisions of GLBA.
 - http://files.consumerfinance.gov/f/201309_cfpb_elder-abuse-guidance.pdf

Financial institution reporting, cont'd.

- **GLBA general rule:** financial institution may not disclose nonpublic personal information about consumer to nonaffiliated third party unless institution first provides consumer with reasonable opportunity to opt out of having information shared.
- Generally, reporting financial exploitation will fall within one of more of these **GLBA exceptions:**
 - Comply with federal, state, or local laws (e.g. mandatory reporting)
 - Respond to civil or criminal investigation, or subpoena
 - Protect against or prevent actual or potential fraud or unauthorized transactions
 - Permits reporting of incidents where older adult's funds are taken without actual consent or when someone obtains consent through misrepresentation.

Financial institution reporting, cont'd

- **GLBA exceptions**, continued
 - In accordance with Right to Financial Privacy Act, to law enforcement agencies (including CFPB, federal functional regulators and FTC), self-regulatory organizations, or for an investigation on a matter related to public safety
- **In addition:** with the consumer's consent or consent of the consumer's legal representative
- Guidance incorporates “red flags” from FinCEN advisory, February, 2011

Question #4

- What is the biggest problem involving “lay fiduciaries?”
 - a) They steal or misappropriate money from the person whose money they are managing
 - b) Most want to do the right thing but don’t know how
 - c) There is little or no oversight or monitoring of their performance
 - d) All of the above are true

OA Initiatives: Managing Someone Else's Money

- **PROBLEM:**
 - Declining capacity to handle finances can make older adults vulnerable
 - People with diminished capacity often need surrogate to handle their money
 - “Lay fiduciaries” – critical source of help; often have no training; some even commit fraud



MANAGING SOMEONE ELSE'S MONEY

Help for agents under a
power of attorney

cfpb
Consumer Financial
Protection Bureau

Managing Someone Else's Money, cont'd

- CFPB INITIATIVE:
 - Released a set of guides called **Managing Someone Else's Money**
 - User-friendly “how-to” guides for four types of fiduciaries: agents under powers of attorney; guardians; trustees; Social Security representative payees and VA fiduciaries

Managing Someone Else's Money, cont'd

- How many fiduciaries are there?
 - Representative payees: In FY 2012, over 4 million adults had representative payees (OASDI and SSI).
 - VA fiduciaries: As of October 2, 2013, VA oversaw 120,000 fiduciaries who provided services to more than 152,000 beneficiaries
 - Agents under power of attorney: About 35% of people age 60 and over currently have a power of attorney—about 22 million people.
 - Guardians: An estimated 1.5 million adults in the United States—and possibly over 3 million— have a court-appointed guardian.

Managing Someone Else's Money, cont'd

- What is a fiduciary? Anyone named to manage money or property for someone else
- Four main duties:
 - Act only in the person's interest – avoid conflicts
 - Manage the money and property carefully
 - Keep the person's money and property separate from yours
 - Keep good records
- Guides teach “lay” fiduciaries, i.e. non-professionals, to spot financial exploitation and protect assets from scams and frauds by third parties.

Managing Someone Else's Money, cont'd

- National guides available for download <http://www.consumerfinance.gov/older-americans/> (see third paragraph) and free in bulk <http://promotions.usa.gov/cfpbpubs.html#special>
- Upcoming: state-specific guides for six states: AZ, FL, GA, IL, OR, VA; and a replication manual for other states.
- How will state guides be different?

Question #5

- Which of the following poses the greatest risk to your older clients?
 - a) Identity theft
 - b) Scams by strangers (online, phone, in person)
 - c) Financial exploitation by trusted people
 - d) All of these – too hard to choose!

OA Initiatives: Money Smart for Older Adults



OA Initiatives: Money Smart for Older Adults

- PROBLEM:
 - Many older Americans, their caregivers, and others in the community don't know how to spot and avoid frauds and scams.
- CFPB INITIATIVE:
 - The Office developed an awareness program called **Money Smart for Older Adults** in collaboration with the FDIC.
 - Materials for trainers to provide presentations on preventing, recognizing, and reporting elder financial exploitation
 - Materials for participants include:
 - Examples and activities
 - Glossary of terms
 - Resources and information on managing money and reporting financial exploitation

Money Smart for Older Adults (cont'd)

- OBJECTIVES:
 - Recognize and reduce the risk of elder financial exploitation
 - Guard against identity theft
 - Plan for unexpected loss of the ability to manage finances
- MODULE TOPICS:
 - Common types of elder financial exploitation
 - Identity theft
 - Scams targeting homeowners and older veterans
 - Planning for unexpected life events
 - How to be financially prepared for disasters

Who can help?

- Adult Protective Services
 - Find contact information at www.eldercare.gov or call 1-800-677-1116
- Federal Trade Commission (FTC)
 - For cases of identity theft, contact the FTC at www.ftc.gov/idtheft or call 1-877-ID THEFT (438-4338)

Downloading and ordering Money Smart materials

- To download the Money Smart for Older Americans module, or find upcoming train-the-trainer events, go to www.fdic.gov/moneysmart
- To order the Participant/Resource Guide, go to www.promotions.usa.gov/cfpbpubs.html

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