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FRAUD ON THE ELDERLY: A GROWING CONCERN FOR A GROWING POPULATION

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMERCE, MANUFACTURING, AND TRADE

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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FRAUD ON THE ELDERLY: A GROWING CONCERN FOR A GROWING POPULATION

THURSDAY, MAY 16, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE, MANUFACTURING, AND TRADE,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:47 a.m., in room 2322, Rayburn House Office Building, Hon. Lee Terry (chairman of the subcommittee) presiding.

Present: Representatives Terry, Lance, Blackburn, Harper, Guthrie, Olson, McKinley, Bilirakis, Johnson, Long, Schakowsky, Butterfield, Sarbanes, Welch, Barrow, Christensen, and Waxman (ex officio).

Staff Present: Kirby Howard, Legislative Clerk; Nick Magallanes, Policy Coordinator, Commerce, Manufacturing and Trade; Brian McCullough, Senior Professional Staff Member, Commerce, Manufacturing and Trade; Gib Mullan, Chief Counsel, Commerce, Manufacturing and Trade; Shannon Weinberg Taylor, Counsel, Commerce, Manufacturing and Trade; Michelle Ash, Minority Chief Counsel, Commerce, Manufacturing and Trade; and Will Wallace, Minority Professional Staff Member.

OPENING STATEMENT OF HON. LEE TERRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. TERRY. So good morning. Welcome to the Commerce, Manufacturing, and Trade Subcommittee on elderly fraud. I am pleased to have a distinguished panel of witnesses before us today, including representatives of four separate Federal entities, and a State attorney general. By the way, nice timing.

The hearing title today goes a long way to explaining why we are here. It is absolutely a growing concern for an expanding population. The fact is America's population is growing older. According to the Census Bureau, from 2000 to 2010, the percentage of Nebraskans over age 65 rose 6.2 percent and the percentage of those over the age 85 jumped by 15.8 percent.

The trend is set to continue and accelerate. By 2050, the number of Americans over age 65 is expected to double. Thanks to medical innovation and better standards of living, folks are living longer. And this population tends to be a little wealthier and have better credit than the average American. According to the 2010 Census data, the median net worth of households of those 65 years or older

was 4.9 times that of households age 35 to 44, and 25.5 times the net of those under age 35.

This fact is not lost on many of the people in this room here today. Unfortunately, neither is it lost on those seeking to take advantage of our seniors, who tend to be more vulnerable and susceptible to some of the many different types of frauds that are being perpetrated.

The testimony submitted for today's hearing only scratch the surface in describing the multitude of fraud schemes out there. The threat is very real and does not appear to be just small-time crooks. Everything from home equity theft, letter fraud originating in foreign countries seems to be occurring. Clearly there is no shortage of individuals or perhaps organized crime groups working to trick, abuse and steal from our American senior citizens.

One of the reasons we are here today, besides to shed light on this awful trend, is to conduct oversight on the agencies sitting before us and make sure they are doing their best to protect seniors as effectively and efficiently as possible. When reviewing the testimonies, I counted at least five separate task forces spread out amongst DOJ, FTC, CFPB alone, some agencies specific and other intra agency. My concern is whether or not we are using our resources as effectively as possible, and not duplicating them when several agencies have separate working groups set up that may duplicate the work being done at another agency.

Additionally, there—are all the agencies communicating with each other? For example, what happens when a phone company sends over a list of numbers that have been connected to fraudulent phone calls like in the widely reported 876 Jamaica phone scam? Does the FBI share this list with the FTC? Does FTC share this with private companies within its jurisdiction?

Stealing from individuals who have worked and saved their entire lives so that they may live in dignity during their golden years is nothing less than appalling, and we need to make sure government is doing everything it can as efficiently as possible to protect the most vulnerable adults.

[The prepared statement of Mr. Terry follows:]

PREPARED STATEMENT OF HON. LEE TERRY

Welcome to the Commerce, Manufacturing, and Trade Subcommittee's hearing on elderly fraud. I am pleased to have a distinguished panel of witnesses before us today, including representatives of four separate federal entities and a state attorney general.

The hearing title today goes a long way to explaining why we here. This is absolutely a growing concern for a growing population. The fact is, America's population is growing older. According to the Census Bureau, from 2000 to 2010 the percentage of Nebraskans over age 65 rose 6.2% and the percentage of those over age 85 jumped by 15.8 percent. This trend is set to continue and accelerate. By 2050, the number of Americans over age 65 is expected to double. Thanks to medical innovation and better standards of living, folks are living longer.

And this population tends to be wealthier and have better credit than the average American. According to the 2010 census data, the median net worth of households of those 65 years and older was 4.9 times that of households aged 35–44 and 25.5 times than that of those under age 35. This fact is not lost on many of the people in this room today.

Unfortunately, neither is it lost on those seeking to take advantage of our seniors who tend to be more vulnerable and susceptible to some of the many different types of frauds that are being perpetrated.

The testimonies submitted for today's hearing only scratch the surface in describing the multitude of fraud schemes out there. The threat is very real and does not appear to be just small-time crooks. Everything from home equity theft, to letter fraud originating in Nigeria seems to be occurring—clearly, there is no shortage of individuals or perhaps organized crime groups working to trick, abuse, and steal from American senior citizens.

One of the reasons we are here today, besides to shed light on this awful trend, is to conduct oversight on the agencies sitting before us, and to make sure they are doing their job to protect seniors as effectively and efficiently as possible.

When reviewing the testimonies, I counted at least five separate tasks forces spread out amongst DOJ, FTC, and CFPB alone—some agency specific and others intra-agency. My concern here is whether or not we are using are resources as effectively as possible and not duplicating them, when several agencies have separate working groups set up that may duplicate the work being done at another agency.

Additionally, are all the agencies communicating with each other? For example, what happens when a phone company sends over a list of numbers that have been connected to fraudulent phone calls—like in the widely reported "876 Jamaica phone scam?" Does FBI share this list with FTC? Does FTC share this with private companies within its jurisdiction? Stealing from individuals who have worked and saved their entire lives so that they may live in dignity during their golden years is nothing less than appalling and we need to make sure government is doing everything it can as efficiently as possible to protect these vulnerable individuals.

# # #

Mr. TERRY. I look forward to today's hearing, today's testimonies, and thank everyone for being part of this hearing. And I now yield to the ranking member of the subcommittee, the gentlelady from Illinois, Ms. Schakowsky.

OPENING STATEMENT OF HON. JANICE D. SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Ms. SCHAKOWSKY. I really thank the chairman so much for having this hearing. Much of my adult life has been as an advocate for seniors. For 5 years, I was director of the Illinois State Council of Senior Citizens. The issues of fraud are very important to our older population, in particular for many of the reasons that my chairman mentioned.

Seniors represent the fastest growing segment of our population. Every day 10,000 Americans turn 65. Happy birthday to 10,000 people. Many seniors have certain characteristics that make them an attractive target for criminal behavior. According to The Scam Foundation, more than one in four seniors who live alone have difficulty with activities of daily living or some cognitive impairment. According to the FBI, seniors generally have higher net worth, the tendency to be trusting, and are less likely to report fraud.

I do want to say that although I agree that the net worth of seniors is higher, the median income of people over 65 is $22,000 a year, so many tend to be cash poor, but perhaps house rich, which again makes them vulnerable.

We have seen an uptick in the numbers of products and services that are targeted toward the elderly: anti-aging products, I am well aware, health-related products, prize promotions and reverse mortgages. I am incredibly concerned about the negative consequences associated with some of those products and services.

Reverse mortgages allow homeowners over the age of 62 to borrow against their homes to receive either a cash payment or a line

of credit. And while reverse mortgages, if they are structured fairly, can offer financial security to seniors, they can also lead to unforeseen foreclosures and financial hardship. Many former subprime lenders have entered the reverse mortgage market, and the results have been devastating for seniors. According to The New York Times, the rate of default on reverse mortgages reached a record high of 9.4 percent last year.

I offered an amendment, which is adopted to the Dodd-Frank Wall Street Reform Consumer Protection Act that allows the Consumer Financial Protection Bureau to better regulate reverse mortgages. I look forward to hearing from Associate Director Hillebrand about the status of that rule making.

This subcommittee must ensure that our Federal agencies have the capacity to root out fraud where the problems are so clear and the solutions are within reach. We should especially do so for our senior citizens who have done so much for our country.

Again, I thank the witnesses for appearing today. I look forward to working collaboratively with Chairman Terry, as we have, I don't know about uniquely in this Congress, but certainly on this committee, and members of the subcommittee to address the issue of senior fraud. And I yield now to Mr. Welch.

Mr. WELCH. I thank Mr. Terry, Ms. Schakowsky. They have been leaders on senior fraud issues and protecting seniors in general. I really appreciate the bipartisan approach.

We have today my friend, Bill Sorrell, who is the attorney general of the State of Vermont. He has been attorney general since 1997. Before that, he was secretary of administration in the administration of Governor Howard Dean. Before that, he was the State's attorney in our largest county, Chittenden County. And he has done an extraordinary job of putting the focus on protecting consumers, with a particular focus on seniors.

And you may remember, Mr. Chairman, we had Mike Smith, who is the executive from Fair Point Communications, and actually his successor as secretary of administration in Vermont to a Republican governor, Jim Douglas, who had a real concern about fraud, and he testified about the Jamaican scams, telephone scams that are really ripping off seniors in Vermont, and Mr. Sorrell has been very active and aggressive on this.

And what we need to provide at our level, as both of you so well know, are the tools that our attorney generals and our local prosecutors need back home. So this has got to be a partnership, the policy has to allow you to do your job, but the hard work actually is right at where you all are doing it. So, Mr. Sorrell, I really appreciate it.

Also, my first job in politics, his mom was on the Senate Government Operations Committee, and was the godmother of all politicians Democratic in Vermont. Now, you may not like that, but we all have very fond memories of——

Mr. TERRY. Is there another type of politician in Vermont?

Mr. WELCH. We are trying to—we are trying to keep it clean, you know what I mean? But his mom was a big—was a mentor of Howard Dean and many of us, and we really just admire the Sorrell family going back generations in Vermont. So thanks for letting him be here.

Mr. TERRY. Thank you. And now I yield 2 minutes to the gentlelady from Tennessee, the vice chairman of the full committee, Ms. Blackburn.

OPENING STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mrs. BLACKBURN. Thank you, Mr. Chairman. And thank you for what I think is a really important hearing. As we look at the issue of fraud and the elderly fraud abuse, it is a very complex problem, and the more I have delved into it, the more complex it seems to become. Of course, I appreciate the fact that much of this I am learning firsthand, as I have a mom, who is in her late 80s, and just lost my dad, who was in his late 80s. So we are going through this and living it every single day, and I appreciate the good work that you all are doing to help us get to the bottom of it.

As we were preparing for this hearing today, I looked at a TBI, Tennessee Bureau of Investigation report that actually pulled together the numbers of what had occurred from 2009 to 2011 in the elderly fraud offenses, and there were over 6,200, nearly 6,300 that were reported, and it accounted for nearly a third of all the fraud victims. The most frequently reported offense was the credit card ATM fraud. And I know you are dealing with that.

The majority of the elderly individuals that reported these crimes were related to or acquainted with their offender. And, sadly, the number of reported fraud cases we have on hand might only be the tip of the iceberg, because one of the things that I have learned is that many of the elderly are embarrassed to report that this has happened to them, or they are not sure how to report it or how it happened. So there are a lot of factors that come into play in this.

And I think there is one other thing that contributes to this, and it is the rogue Web sites. These rogue Web sites with rogue financial networks that continue to target our seniors with free goodies and with pirated content and it is so inexpensive, so affordable. We all know the come-ons that they put out there. Cracking down on those pirated Web sites is going to be essential to protecting our seniors and allowing them to protect what I term the virtual you, their virtual presence online.

And I am hoping that our hearing today will help clarify the roles that each agency has in preventing elderly fraud and possibly identifying areas of duplicative efforts so that we can more effectively target the problems. I yield back.

Mr. TERRY. Thank you. Mr. Lance, the vice chairman of the committee, subcommittee, you are recognized for the remainder of the time.

Mr. LANCE. Thank you, Mr. Chairman. Fraud perpetrated on the elderly is often a terrible crime of opportunity. With America's baby boomers beginning to enter retirement age, I am happy that Chairman Terry and this subcommittee are examining the Federal role in anticipating and preventing this trend.

My office receives requests to assist in combating fraud on a weekly basis. With technological advancements, the criminal element becomes more sophisticated and more difficult to combat. Many scammers prey on American senior citizens, many of whom

must navigate a complicated bureaucracy on their own, perhaps as new users of computers or the Internet.

It is my hope that Congress, and in particular this subcommittee, can provide the needed tools and resources to prevent current and future fraud threats.

Fraud against senior citizens has risen consistently in New Jersey. Nearly 6,400 cases of elder abuse were reported throughout the State in 2010, up from the 2 previous years. About one in five cases of fraud in New Jersey involves financial exploitation. This is intolerable.

I commend groups such as AARP and the law enforcement community for their aggressive defense on behalf of senior citizens. I also commend the New Jersey Division of Aging and Community Services for its work as well.

It is my hope that these partners and our witnesses here today will educate the public on the trends and threats regarding this issue. I look forward to hearing your testimony this morning. Thank you, Mr. Chairman.

Mr. TERRY. Thank you, Mr. Vice Chairman. We will yield back our time and would like to recognize the full committee, I almost said——

Mr. WAXMAN. She has already gone?

Mr. TERRY. Yes. So Mr. Waxman, you have the 5 minutes.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you very much, Mr. Chairman. I want to thank you for holding this hearing on fraud affecting older Americans.

Imagine getting an email from a dear friend that she had gotten mugged while on vacation, that her cash and credit cards were taken at gunpoint, and she needs you to wire money so that she can pay her hotel bill. After you wire the money, you find out that the mugging never occurred. Unfortunately, this emergency scam happened to a senior in my district, and many other similar frauds are committed each day around the country.

One may think that fraud is easy to spot, but in the case I just mentioned, the email was sent from the friend's actual email account, now hacked, and included her actual address and phone number. And with the prevalence of social media sites, one can easily imagine a fraudster knowing that a victim's or grandchild or friend is on vacation.

Last month the Federal Trade Commission released the results of its most recent survey on fraud, reflecting data from 2011. This report estimated that over 25 million Americans were victims of surveyed frauds, including those that preyed on consumers' desire to improve their health, find a job or save money on everyday needs.

According to the FBI, older Americans possess certain characteristics that make them attractive targets for fraudulent activity. Many seniors have accumulated retirement savings, tend to be polite and trusting, and are unable or reluctant to report fraud or serve as criminal witnesses. They are also targeted disproportion-

ately for certain scams like those involving prize promotions, health-related products and services, and reverse mortgages.

And appallingly, older Americans are also exploited financially by those close to them, including by trusted people like family members, friends, attorneys or financial advisors.

Fraud against the elderly is a very serious crime with the potential for severe harm, including lost retirement funds, ruined credit, and an emotional toll on victims and their families that is not easy to overcome.

I commend President Obama for recognizing this through his administration's significant efforts to educate consumers about fraud and through his establishment of the financial fraud enforcement task force.

Federal, State, and local authorities must remain vigilant in the fight against fraud occurring on consumers of any age, and Congress must ensure that law enforcement has the tools it needs to win that fight. This hearing on fraudulent activities is a good start. Thank you, Mr. Chairman.

I thank the witnesses for being here. I do want to apologize in advance, because I will be required to be at another subcommittee at the same time, and while cloning is a possibility, it still hasn't, God forbid, come to the level of making another me.

And I have some time left. Anybody on our side or either side want the time?

Mrs. BLACKBURN. If the gentleman would yield for just——

Mr. WAXMAN. The gentlelady from the Virgin Islands. I yield to her.

Mrs. CHRISTENSEN. I wanted to just say for my part that fraud committed against the elderly—and I thank you for yielding—against our seniors is an egregious crime, and so I want to thank the chairman and ranking member for holding this hearing.

In my district, people over 60 are a sizeable population and we have a fair number of people in their 90s, and so in a place where services are not readily available, they are particularly vulnerable to insurance and other financial crimes even, easy repairs on homes and any number of fraudulent offers that seem attractive, and so they take advantage of them and find themselves in difficulty, so I am glad we are having this hearing. And thank you to the witnesses for being here. I yield back.

Mr. WAXMAN. I have a few minutes left. I want to yield to the gentlelady from Tennessee.

Mrs. BLACKBURN. I thank the gentleman from California. I was just going to encourage you to send your avatar to the other hearing and then you can stay with us. You know, I thought that——

Mr. WAXMAN. A good idea.

Mrs. BLACKBURN. Yes.

Mr. WAXMAN. Another good idea.

Mrs. BLACKBURN. Absolutely. Yield back.

Mr. WAXMAN. Thank you.

Mr. TERRY. Thank you. All right. We do not need avatar testimony.

We appreciate all of you here. I am going to introduce the entire panel, and appreciate all of you being here, and we will go right to left. When you start, Ms. Brown. You are the director of Edu-

cation, Workforce and Income Security with GAO. Appreciate you being here.

Joseph Campbell, criminal investigation division of the Federal Bureau of Investigation. And I had mentioned to him earlier that it is always nice that we invite you in instead of you just showing up. That has a little bit different connotation.

Gail Hillebrand, associate director——

Oh. Charles Harwood. We are going to let you testify as well. Acting director, Bureau of Consumer Protection, Federal Trade Commission.

And Gail Hillebrand, associate director, Consumer Education and Engagement, the Consumer Financial Protection Bureau.

And last, and already introduced by our good friend from Vermont, we have the AG of Vermont, Mr. Bill Sorrell.

So appreciate all of you here. And we will go from my left to right. So Ms. Brown, you get to start. You are now recognized for 5 minutes.

STATEMENTS OF KAY BROWN, DIRECTOR, EDUCATION, WORKFORCE, AND INCOME SECURITY, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; JOSEPH S. CAMPBELL, DEPUTY ASSISTANT DIRECTOR, CRIMINAL INVESTIGATION DIVISION, FEDERAL BUREAU OF INVESTIGATION; CHARLES HARWOOD, ACTING DIRECTOR, BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE COMMISSION; GAIL HILLEBRAND, ASSOCIATE DIRECTOR, CONSUMER EDUCATION AND ENGAGEMENT, CONSUMER FINANCIAL PROTECTION BUREAU; AND HON. WILLIAM H. SORRELL, ATTORNEY GENERAL, STATE OF VERMONT

STATEMENT OF KAY BROWN

Ms. BROWN. Thank you. Chairman Terry, Ranking Member Schakowsky, and members of the subcommittee, thank you for this opportunity to discuss our work on elder financial exploitation. My remarks today are based on a year-long GAO study completed last November.

Financial exploitation can result from foreign lottery scams, unscrupulous financial advisors, betrayal by trusted in-home caregivers, or multiple other causes. This exploitation can undermine the health, dignity and independence of older adults, leading to far-reaching effects for the victims in particular, but for society in general. Victims who lose their ability to support themselves can put additional pressure on scarce health care and social service resources.

Much of the responsibility for combating elder financial exploitation falls on State and local social service, criminal justice and consumer protection agencies. And the problem is large and likely growing.

The Federal Government has an important role to play, and today I will mention four key areas that can benefit from Federal attention.

First, officials at all levels of government need to better understand the nature and extent of the problem. Data from FTC's Consumer Sentinel Network, FBI's Internet Crime Complaint Center,

and FinCEN's suspicious activity reports can be analyzed to shed light on current trends and schemes to help agencies better determine how to best direct Federal resources. In our report, we made recommendations to FTC that we believe would improve the usefulness of the consumer sentinel data for these purposes.

Second, identifying and preventing financial exploitation that is before victims have lost their entire life savings requires marshalling the efforts of those who interact with older adults regularly in the community, such as bank tellers and medical professionals. In our field work, we were told that bank staff in particular may be reluctant to report their suspicions of exploitation for fear of violating important privacy rules. We recommended that CFPB takes steps to help employees of financial institutions recognize signs of exploitation and understand their reporting options.

Third, regarding investigating and prosecuting financial exploitation, State and local criminal justice officials told us they could benefit from additional training and support from the Federal agencies that have specialized expertise. This is especially true for interstate and international mass marketing scams. We have recommended that Justice launch its planned Web site that would make resources, such as training and primary litigation materials, available to State and local officials, and also that Justice conduct outreach to clarify the process for requesting assistance or referring cases to the Federal level.

And fourth, possibly the best way to fight this problem is through education. Older adults, family members and the public in general need more information about what constitutes financial exploitation and how to avoid it. This information could range from tips on avoiding scams, to shedding light on the many designations used by financial service professionals.

Each of the seven Federal agencies we reviewed independently produces educational materials, but we believe these efforts would be more effective if they were part of a broader, more coordinated national public awareness campaign.

As you will hear from others today, multiple Federal agencies are working to address financial exploitation in ways that are consistent with each of their individual missions. Also, agency representatives have participated in various working groups and collaborated through task forces over time; however, we believe a more cohesive and deliberately planned national strategy is needed to increase the likelihood of success and to optimize the use of scarce Federal resources.

The recently formed Elder Justice Coordinating Council, charged by law with setting priorities and coordinating Federal elder justice efforts, can be an appropriate vehicle for this. We recommended that the council develop this national strategy along with a clear set of goals and assignments for completing these goals. The council met this week for the second time and received a set of recommendations from its working group that, if approved and implemented, would begin to address many of the issues I have raised today.

This concludes my prepared statement. I am happy to answer any questions.

Mr. TERRY. Well timed. Much appreciated.

[The prepared statement of Ms. Brown follows:]

United States Government Accountability Office

Testimony

Before the Subcommittee on Commerce, Manufacturing, and Trade, Committee on Energy and Commerce, House of Representatives

For Release on Delivery
Expected at 9:45 a.m. EDT
Thursday, May 16, 2013

ELDER JUSTICE

Federal Government Has Taken Some Steps but Could Do More to Combat Elder Financial Exploitation

Statement of Kay E. Brown, Director
Education, Workforce, and Income Security

GAO-13-626T

GAO Highlights

Highlights of GAO-13-626T, a testimony before the Subcommittee on Commerce, Manufacturing, and Trade, Committee on Energy and Commerce, U.S. House of Representatives

Why GAO Did This Study

Elder financial exploitation is the illegal or improper use of an older adult's funds or property. It has been described as an epidemic with society-wide repercussions. While combating elder financial exploitation is largely the responsibility of state and local social service, criminal justice, and consumer protection agencies, the federal government has a role to play in this area. GAO was asked to testify on the different forms elder financial exploitation can take and the ways federal agencies can help combat it. This testimony is based on information in a report issued in November 2012 (see GAO-13-110). To obtain this information, GAO interviewed public officials in California, Illinois, New York, and Pennsylvania—states that had large elderly populations and initiatives to combat financial exploitation; officials from seven federal agencies; and experts in this field. GAO also reviewed federal strategic plans and other relevant documents, research, laws, and regulations.

What GAO Recommends

In its November 2012 report, GAO made multiple recommendations to federal agencies, and the agencies generally agreed with the recommendations.

View GAO-13-626T. For more information, contact Kay Brown at (202) 512-7215 or brownke@gao.gov.

May 16, 2013

ELDER JUSTICE

Federal Government Has Taken Some Steps but Could Do More to Combat Elder Financial Exploitation

What GAO Found

Older adults are being financially exploited by strangers who inundate them with mail, telephone, or Internet scams; unscrupulous financial services professionals; and untrustworthy in-home caregivers. Local law enforcement authorities in the four states GAO visited indicated that investigating and prosecuting the growing number of cases involving interstate and international mass marketing fraud—such as "grandparent scams," which persuade victims to wire money to bail "grandchildren" out of jail or pay their expenses—is particularly difficult. In addition, older adults, like other consumers, may lack the information needed to make sound decisions when choosing a financial services provider. As a result, they can unknowingly risk financial exploitation by those who use questionable tactics to market unsuitable or illegal financial products. Local officials also noted that it is difficult to prevent exploitation by in-home caregivers, such as home health or personal care aides, individuals older adults must rely on.

GAO identified several ways the federal government is, or could be, supporting state and local efforts to combat elder financial exploitation.

- With regard to mass marketing scams, GAO has recommended that the Department of Justice reach out to law enforcement authorities in states to clarify how they can obtain the federal assistance needed to handle interstate or international mass marketing fraud.
- To help prevent exploitation by financial services professionals, the Securities and Exchange Commission links to a public website where the qualifications of individual financial services providers can be found, and the Consumer Financial Protection Bureau has issued guidance on how best to convey this information to older adults.
- To prevent exploitation by in-home caregivers, the Centers for Medicare and Medicaid Services provides grants that fund background checks for employees of agencies that provide these services.

Other federal efforts are broader in scope and help combat all types of elder financial exploitation. For example, each of the seven federal agencies GAO reviewed has independently undertaken activities to increase public awareness of this exploitation; however, GAO has recommended that the federal government develop a more strategic approach to these efforts. Further, recognizing the importance of collaboration among those interacting with older adults, GAO has recommended measures to educate bank staff on how to identify potential exploitation and improve collaboration among social service and law enforcement agencies, among others, as they respond to reports of exploitation. GAO has also noted the need for more data on the extent and nature of elder financial exploitation, some of which can be collected from consumer complaints filed with federal agencies. Finally, preventing and responding to elder financial exploitation calls for a more cohesive and deliberate national strategy. To this end, GAO has recommended that the Elder Justice Coordinating Council—a group of federal agency heads charged with setting priorities and coordinating federal efforts to combat elder abuse nationwide—develop a written national strategy for combating elder financial exploitation.

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

Chairman Terry, Ranking Member Schakowsky, and Members of the Subcommittee:

Thank you for this opportunity to discuss our work on elder financial exploitation. According to experts, the illegal or improper use of older adults' funds, property, or assets is reaching epidemic proportions in this country and has far-reaching effects on its victims and society, in general. One study estimated that financial exploitation cost older adults at least $2.9 billion in 2010.[1] The money older adults lose in these cases is rarely recovered and this loss can undermine both the health of older adults and their ability to support and care for themselves. Victims of elder abuse—including elder financial exploitation—can incur higher healthcare expenses, further straining already overtaxed Medicare[2] and Medicaid[3] resources and increasing the demand for a range of supportive services, and older adults left without the means to live independently may have to rely on publicly supported long-term care placements. As the U.S. population ages, growing numbers of older adults could be at risk of financial exploitation, so its potential impact on society is likely to increase.

Older adults are particularly attractive targets for financial exploitation by unscrupulous individuals. As a group, older adults tend to possess more wealth than those who are younger because they have had a longer time to acquire it. In addition, the incidence of Alzheimer's disease and other dementias that undermine judgment increases with age.[4] Moreover, financial capacity—the capacity to manage money and financial assets in

[1] MetLife Mature Market Institute et. al., *The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation against America's Elders* (2011). This estimate is based on a study of media reports from April to June 2010.

[2] 42 U.S.C. §§ 1395-1395kkk-1. Medicare is a federal health insurance program for people age 65 or older, people under age 65 with certain disabilities, and people of all ages with permanent kidney failure requiring dialysis or a kidney transplant.

[3] 42 U.S.C. § 1396d(a)(7). Medicaid is a joint federal-state financing program for health care services for certain low-income individuals. State Medicaid programs may cover home-based care, such as personal care and homemaker services for Medicaid beneficiaries who need help with self-care due to disabilities or health conditions.

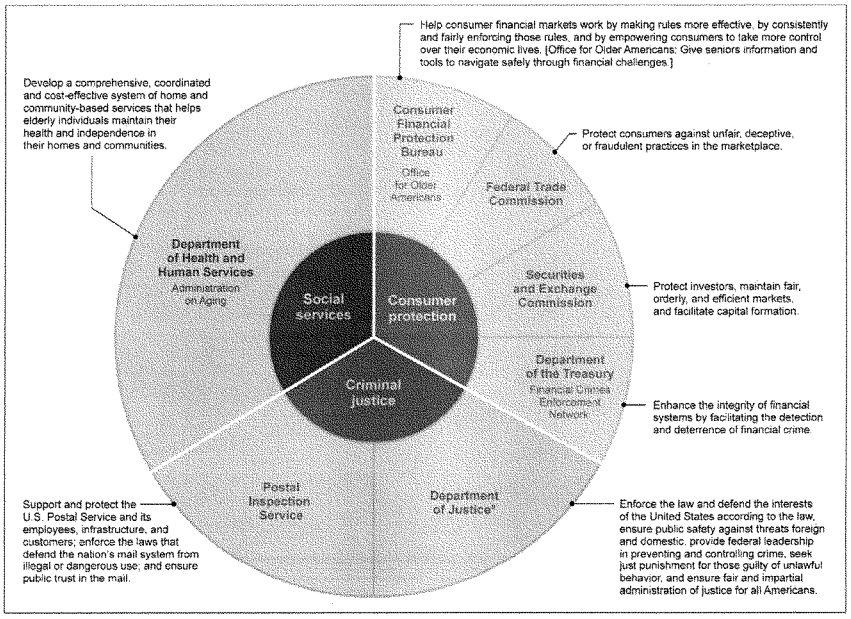
[4] Herbert et al., "Alzheimer Disease in the US Population," *Archives of Neurology,* 60 (August 2003): 1119-1122.

ways that meet one's needs—generally declines with age, and this decline may go unaddressed until it is too late.[5]

State and local agencies in the social services, criminal justice, and consumer protection systems in each state are at the forefront of efforts to prevent, detect, and respond to elder financial exploitation. Although combating elder financial abuse is explicitly included in the mission of only one federal agency, the relatively new Consumer Financial Protection Bureau's (CFPB) Office for the Financial Protection of Older Americans (Office for Older Americans), it is implicit in the mission of the others that work to combat elder abuse, protect consumers or investors, or prevent fraud. Seven federal agencies whose missions correspond to the state and local social service, criminal justice, and consumer protection systems are positioned to contribute to or support state and local efforts in this area: the Administration on Aging (AoA) within the Department of Health and Human Services (HHS), CFPB, the Department of Justice (Justice), the Federal Trade Commission (FTC), the Financial Crimes Enforcement Network (FinCEN), the Securities and Exchange Commission (SEC), and the Postal Inspection Service (see fig. 1).

[5] Agarwal et al., "The Age of Reason: Financial Decisions over the Life Cycle with Implications for Regulation," Brookings Papers on Economic Activity 2 (Washington, D.C.: 2009): 51-117.

Figure 1: Federal Agencies with Missions That Involve Combating Elder Financial Exploitation



Source: GAO analysis of agency strategic plans.

[a]The Department of Justice also plays a consumer protection role.

My testimony today describes the different forms elder financial exploitation can take and how the federal government can help state and local agencies combat this exploitation. It is based on findings from our

November 2012 report on this topic.[6] To obtain this information we interviewed state and local officials from social services, criminal justice, and consumer protection agencies in California, Illinois, New York, and Pennsylvania—states that vary geographically, and have large elderly populations and a number of initiatives that aim to combat elder financial exploitation. We also identified and assessed the activities aimed at preventing or responding to elder financial exploitation of seven federal agencies;[7] conducted in-depth reviews of six prosecuted elder financial exploitation cases that are a non-generalizable sample of these types of cases; interviewed many experts in this subject area; and reviewed relevant laws, regulations, documents, and published research. We conducted this performance audit from November 2011 to November 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our investigative activities were conducted in accordance with standards prescribed by the Council of the Inspectors General for Integrity and Efficiency.

Elder Financial Exploitation Can Take Many Forms

Older adults are being financially exploited by strangers who inundate them with mail, telephone, or Internet scams; unscrupulous financial services providers; and untrustworthy in-home caregivers (see table 1 for more details). For example:

- Mass marketing scams: Local law enforcement authorities in the four states we visited indicated that investigating and prosecuting the growing number of cases involving interstate and international mass marketing fraud, which often targets older adults, is particularly difficult for them. Interstate or international mass marketing scams include "grandparent scams," which persuade victims to wire money to bail "grandchildren" out of jail or pay their expenses, and foreign

[6] GAO, *Elder Justice: National Strategy Needed to Effectively Combat Elder Financial Exploitation*, GAO-13-110 (Washington, D.C.: November 15, 2012).

[7] We reviewed the activities of the Department of Health and Human Services' Administration on Aging, Consumer Financial Protection Bureau, Department of Justice, Federal Trade Commission, Department of the Treasury's Financial Crimes Enforcement Network, Postal Inspection Service, and Securities and Exchange Commission.

lottery scams that require victims to pay sizeable sums before they can receive their winnings. In 2011, the Federal Bureau of Investigation's (FBI) Internet Crime Complaint Center received over 300,000 complaints from victims of all ages about online fraud alone, with reported losses of about $485 million.

- Exploitation by financial services professionals: Older adults may consult with a variety of financial professionals, such as financial planners,[8] broker-dealers,[9] and insurance agents.[10] However, older adults, similar to other consumers, may lack the information to make sound decisions about choosing a financial services provider and protecting their assets from exploitation. As a result, they may unknowingly put themselves at risk of financial exploitation. Older adults can be sold what they believe to be legitimate investments but are actually fraudulent products that hold little or no value, or may be fooled by financial professionals who use questionable tactics to market financial products, such as "free lunch seminars" at which financial professionals seek to sell financial products to older adults during a free meal.
- Exploitation by in-home caregivers: Local officials cited exploitation by in-home caregivers—who range from personal care aides who provide non-medical assistance to home health aides who may check an older adult's vital signs—as a type of abuse that is difficult to prevent, in part because these older adults may rely on and trust their caregivers. For example, a caregiver may be given access to an older adult's ATM or credit card to help with banking or grocery shopping,

[8] Financial planners can provide a variety of services, including preparing financial plans for clients based on their financial circumstances and objectives and making recommendations for specific actions clients may take. In many cases, financial planners also help implement these recommendations by, for example, selling investment products, such as insurance, securities, or other investments. See GAO, *Consumer Finance: Regulatory Coverage Generally Exists for Financial Planners, but Consumer Protection Issues Remain*, GAO-11-235 (Washington, D.C.: January 18, 2011).

[9] Broker-dealers handle trades between the buyers and sellers of securities and charge a fee to do so.

[10] Insurance agents sell products, such as life insurance or annuities. They must be licensed by the states to sell these products, and are subject to state insurance regulation. See GAO-11-235.

and later be found withdrawing money or purchasing items for themselves.[11]

Table 1: Examples of Forms of Elder Financial Exploitation, by Type of Perpetrator

Perpetrators	Forms
Strangers	• Lottery, mail, telephone or Internet scams • Door-to-door home repair scams • Identity theft
Financial services providers (brokers, financial advisors, insurance agents, or others in the financial services industry)	• Sale of fraudulent investments (Ponzi or pyramid schemes) • Sale of financial products or services unsuitable for an older adult's circumstances, such as long-term annuities
Family members, friends, home care providers, legal guardians, representative payees[a], etc.	• Theft of cash or other valuables • Withdrawals from bank accounts or use of credit cards • Transfer of deeds • Misuse of an older adult's power-of-attorney • Misappropriation of an incapacitated older adult's income or assets • Identity theft

Source: GAO analysis of published research.

[a] Representative payees are persons who receive Social Security benefits on behalf of recipients who are determined to be incapable of managing their finances. 20 C.F.R. §§ 416.601 and 416.2001.

Federal Agencies Are Helping States Combat Exploitation in Various Ways

We identified a number of ways the federal government was supporting or could further support state and local efforts to combat elder financial exploitation.

Local law enforcement officials we met with indicated it is not clear how they should obtain the federal support they need to respond to interstate and international mass marketing fraud cases. Justice officials told us they believe that local officials know which federal employees to contact;

[11] We have also noted in past reports that guardians—who are granted authority by a state court to make decisions in the best interest of an incapacitated individual concerning his or her person or property—are only subject to limited safeguards and oversight that could protect the older adults they assist from financial exploitation. See GAO, *Guardianships: Cases of Financial Exploitation, Abuse, and Neglect of Seniors,* GAO-10-1046 (Washington, D.C.: September 30, 2010), and GAO, *Incapacitated Adults: Oversight of Federal Fiduciaries and Court-Appointed Guardians Needs Improvement,* GAO-11-678 (Washington, D.C.: July 22, 2011).

however, state and local law enforcement officials told us it would be helpful to have more specific information. Cases that local officials do not refer to a federal agency due to a lack of correct contact information may not be investigated or prosecuted by either federal or local authorities. In our November 2012 report, we recommended that the Attorney General conduct outreach to state and local law enforcement agencies to clarify the process for contacting the federal government in these cases and the ways in which the federal government could provide support. Justice agreed with this recommendation, and in December 2012 held a meeting to begin identifying points of contact both within and outside the Department, such as FBI field offices, US Attorneys' offices, the Internet Crime Complaint Center, and FTC's Consumer Sentinel database. Justice noted that it will develop an implementation plan and timeline to initiate outreach to the appropriate state and local agencies.

In addition to not knowing whom to contact, state and local law enforcement officials in the four states we visited told us that they are concerned that federal agencies do not take enough of the cases that are referred to them. For example, a law enforcement official from California described a case of widespread interstate check fraud, expressing frustration with federal agencies that would not provide any support when he requested it. Federal officials, on the other hand, told us that they cannot take all cases referred to them by state and local law enforcement and that they must prioritize their caseload to make the best use of their limited resources. Justice and FTC officials said they tend to focus on larger cases in which many victims were affected or a significant amount of money was lost, and Justice's U.S. Attorneys also apply regional priorities, such as the vulnerability (including age) of the victim, when determining which cases to take. Even if federal agencies choose not to take a case a state or local agency refers to them, Justice officials told us that consistent referrals of cases by state and local authorities allow them to identify patterns or combine several complaints against the same individual into one case.

Federal agencies have made some efforts to provide safeguards to prevent exploitation by financial services professionals, which was cited as a challenge by public officials in all four states we visited. When it comes to preventing the sale to older adults of unsuitable or fraudulent investments, SEC and CFPB have each taken steps to help older adults avoid being exploited. SEC and CFPB have conducted research related to investment fraud that targets older adults, and in August 2012, SEC released a study on financial literacy among investors and stated the agency's desire to develop a strategy for increasing the financial literacy

of certain groups, including older adults. Further, there is a link on SEC's website to Financial Industry Regulatory Authority (FINRA),[12] information consumers can use to check a financial services provider's qualifications and to understand the many designations used by securities professionals. CFPB also issued a report in 2013 addressing how information about financial advisors and their credentials should be provided to older adults.[13]

To prevent exploitation by in-home caregivers—also identified as a challenge by officials in the four states we visited— the Patient Protection and Affordable Care Act of 2010[14] required the Centers for Medicare and Medicaid Services to implement the National Background Check Program, which encourages but does not require states to adopt safeguards to protect clients of in-home caregivers. This program provides grants to states to conduct background checks for employees of long-term care facilities and providers, such as home health agencies and personal care service providers. As of November 2012, 19 states were participating. According to the National Conference of State Legislatures, many states require agencies to conduct background checks before employing in-home caregivers who are paid by Medicaid or with other state funds. These laws, however, vary greatly in their breadth and scope and in the amount of flexibility afforded the agencies when they use the checks to make hiring decisions.[15] For example, Napa County, California, has initiated an innovative paid in-home caregiver screening initiative. Before in-home caregivers can work in that county, they must submit to a background check and obtain a permit annually.

Other federal efforts are broader in scope rather than focusing on a particular type of elder financial exploitation, such as those covering public awareness, banks, collaboration among agencies, and data collection.

[12] FINRA is a self-regulatory organization that writes and enforces rules for brokers and brokerage firms.

[13] CFPB (2013) *Senior Designations for Financial Advisers: Reducing Consumer Confusion and Risks.*

[14] Pub. L. No. 111-148, tit. VI, subtit. C, § 6201, 124 Stat. 119, 721.

[15] National Conference of State Legislatures, *State Policies on Criminal Background Checks for Medicaid-Supported In-Home Direct Care Workers* (December 18, 2008).

State and local officials told us that older adults need more information about what constitutes elder financial exploitation in order to know how to avoid it. At the state level, the Pennsylvania Attorney General's Office has published a guide on how seniors can avoid scams and fraud, and in Cook County, Illinois, the Senior Law Enforcement Academy within the Sheriff's Department instructs older adults in how to prevent elder financial exploitation. At the federal level, each of the seven federal agencies we reviewed independently produces educational materials that could help prevent elder financial exploitation. However, these seven agencies do not conduct their activities as part of a broader coordinated approach. In previous work, we found that agencies can use limited funding more efficiently by coordinating their activities and can strengthen their collaboration by establishing joint strategies.[16] The need to increase coordination of efforts to promote public awareness in this area was discussed in 2012 at a high-level multi-agency meeting on elder justice. One participant observed that federal efforts to promote awareness are unorganized and uncoordinated, and one expert noted that there is a clear need for a strategic, multifaceted public awareness campaign. In our November 2012 report, we recommended that the federal government take a more strategic approach to its efforts to increase public awareness of elder financial exploitation. HHS has begun to act on this recommendation, as described below.

In our November 2012 report, we could identify no federal requirements for banks to train employees to recognize or report elder financial exploitation, even though they are well-positioned to identify and report it because they are able to observe it firsthand. For example, a bank teller who sees an older adult regularly is likely to notice if that individual is accompanied by someone new and seems pressured to withdraw money or if the older adult suddenly begins to wire large sums of money internationally. However, many social services and law enforcement officials we spoke with indicated banks do not always recognize or report exploitation or provide the evidence needed to investigate it.[17] AoA is considering collaborating with one large national bank on a project to

[16] See GAO, *Results-Oriented Government: Practices that Can Help Enhance and Sustain Collaboration Among Federal Agencies,* GAO-06-15 (Washington, D.C.: October 21, 2005).

[17] The Financial Services Roundtable, a trade association with members from the banking, securities, investment, and insurance sectors, aims to protect and promote the economic vitality and integrity of its members and the U.S. financial system.

develop bank training on elder financial exploitation. In addition, financial institutions are required to file Suspicious Activity Reports (SARs) of potentially illegal bank transactions that involve, individually or in the aggregate, at least $5,000 with FinCEN,[18] which has issued an advisory to banks that describes elder financial exploitation and its potential indicators. Our November 2012 report recommended that CFPB develop a plan to educate bank staff on elder financial exploitation. CFPB concurred with our recommendation and has begun to share information on currently available training programs with banks and industry associations.

Federal agencies have taken some steps to promote and inform collaboration between the social services and criminal justice systems in states, which officials in three of the four states we contacted for our November 2012 report identified as a challenge. These two systems do not respond to exploitation or carry out their work in the same way. The social services system protects and supports victims and the criminal justice system investigates and prosecutes crimes. As a result, there can be difficulties communicating across disciplines and different views regarding limits on information-sharing.[19] Yet due to the nature of elder financial exploitation, collaboration can be an effective means to facilitate case investigation and prosecution. We identified a number of local initiatives to help bridge the gap between social services and criminal justice agencies. For example, in some Pennsylvania and New York counties, multidisciplinary groups meet to discuss and help resolve all types of elder abuse cases. The Philadelphia Financial Exploitation Task Force and financial abuse specialist teams in some California counties, on the other hand, concentrate only on elder financial exploitation cases. At the federal level, a few grants from AoA and Justice to combat elder abuse or other crimes have required or encouraged collaboration, such as the use of multi-disciplinary teams, in states. In our November 2012 report, we recommended that the federal government take steps to help state and local agencies collaborate. HHS has begun to act on this recommendation, as described below.

A number of experts have called for more data on the cost of elder financial exploitation to public programs and for trend data on its extent,

[18] 12 C.F.R. § 21.11 (2013).

[19] Brandl et al, *Elder Abuse Detection and Intervention* (New York: 2007).

and several federal agencies collect administrative data on the number of complaints submitted by consumers or criminal cases that sometimes involve elder financial exploitation. These data could help determine what government resources to allocate and how to best prevent and respond to elder financial exploitation. However, according to our analysis, as of November 2012, only one state had undertaken a study quantifying the cost of elder financial exploitation in that state.[20] At the federal level, FTC publishes statistics from its Consumer Sentinel Network database (Consumer Sentinel) on the number and types of complaints, amount of losses, and characteristics of victims.[21, 22] Data from the Consumer Sentinel could be of particular interest to state and local APS and law enforcement authorities, because over half of the consumer complaints reported to this system involve financial exploitation through fraud. Currently, however, the Consumer Sentinel does not receive any of the complaints reported to any of the law enforcement or consumer protection agencies in 38 states. Moreover, less than half of the complaints in the Consumer Sentinel contain the age of the victim because FTC does not require complaints to include this information or other indicators of whether the case involved elder financial exploitation. FTC officials told us the agency does not require complaints to include the age of the victim because of concerns regarding privacy and the potential burden this might place on individual complainants. In contrast, FinCEN requires institutions filing SARs to indicate whether or not the report involves suspected elder financial exploitation. In our November 2012 report, we recommended that FTC study the feasibility of requiring that all complaints to the Consumer Sentinel include either the victim's age or an indication of whether the complaint involves elder financial exploitation and take additional steps to encourage reporting from more state and local law enforcement agencies. In its response, FTC said that it will consider our second recommendation. Regarding the first recommendation, FTC cited concerns that requiring personal data could

[20] Gunther, Jilenne, *The 2010 Utah Cost of Financial Exploitation*, Utah Division of Aging and Adult Services (2012).

[21] FTC's Consumer Sentinel Network is an online database that houses millions of consumer complaints available to law enforcement. Sentinel's roster of 28 current data contributors includes 12 state attorneys general, the FBI's Internet Crime Complaint Center, and the Council of Better Business Bureaus. More than 2,600 users from over 2,000 law enforcement agencies worldwide use the system to share information, prosecute cases, and pursue leads.

[22] FTC (2012) *Consumer Sentinel Network Data Book for January - December 2011.*

decrease the numbers of people who submit complaints. It additionally said that it may be possible to determine if a complaint involves elder fraud using other information in the complaint. We maintain the importance of our recommendation to FTC.

Elder financial exploitation is a complex, nationwide problem, and combating it effectively requires a concerted, ongoing effort on the part of states and localities. It also requires support and leadership at the federal level. Each of the seven federal agencies we reviewed is working to address this problem in ways that are consistent with its mission. However, preventing and responding to elder financial exploitation also calls for a more cohesive and deliberate national strategy. This is an opportune time for the federal government to be looking at elder financial exploitation, because the Elder Justice Act of 2009 has established the Elder Justice Coordinating Council (EJCC)—a group of federal agency heads charged with setting priorities, coordinating federal efforts, and recommending actions to ensure elder justice nationwide—which has recently begun to examine these issues.[23] The EJCC can be the vehicle for defining and implementing such a national strategy. To this end, in our November 2012 report we recommended that the EJCC develop a written national strategy for combating elder financial exploitation. Among other things, this strategy should ensure coordination of public awareness activities across federal agencies; promote agency collaboration; and promote investigation and prosecution of elder financial exploitation. The EJCC held an official meeting on May 13, 2013. Its working group presented a number of recommendations, including ones that focused on enhancing interagency collaboration, strategically promoting public awareness, and combating financial exploitation. Next steps will include receiving public comments and drafting a federal agenda for elder justice activities for EJCC consideration.

Chairman Terry, Ranking Member Schakowsky, and Members of the Subcommittee, this concludes my statement. I would be happy to answer any questions you might have.

[23] Pub. L. No. 11-148, tit. VI, subtit. H, § 6703(a), 124 Stat. 782, 786 (2010) (codified at 42 U.S.C. § 1397k).

Contacts and Acknowledgments

For questions about this testimony, please contact Kay Brown at (202) 512-7215 or brownke@gao.gov. Contacts from our Office of Congressional Relations and Office of Public Affairs are on the last page of this statement. Individuals who made key contributions to this testimony include Clarita Mrena, Eve Weisberg, Monika Gomez, Brittni Milam, and James Bennett. Contributing to our November 2012 report were Andrea Dawson, Gary Bianchi, Jessica Botsford, Jason Bromberg, Alicia Cackley, Paul Desaulniers, Holly Dye, Eileen Larence, Jean McSween, Chris Morehouse, Claudine Pauselli, Almeta Spencer, Kate Van Gelder, and Craig Winslow.

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Mr. TERRY. Mr. Campbell, you are now recognized for your 5 minutes.

STATEMENT OF JOSEPH S. CAMPBELL

Mr. CAMPBELL. Thank you. Chairman Terry, Ranking Member Schakowsky——

Mr. TERRY. Is your microphone on?

Mr. CAMPBELL. Chairman Terry, Ranking Member Schakowsky and members of the subcommittee, I am pleased to appear before you today to discuss the FBI's efforts to combat fraud against our Nation's seniors.

At the beginning of 2011, the first of our Nation's baby boomers reached the age of 65. Since then, thousands a day also reach that milestone. They have many reasons to celebrate. Senior citizens are most likely to have a nest egg, to own their home, and to have excellent credit. Unfortunately, these are also many of the same qualities which make them so attractive to con artists.

Unscrupulous loan officers, investors, appraisers, developers and others are exploiting home equity conversion mortgages, HECMs, also known as reverse mortgages, to defraud senior citizens. HECM-related fraud is occurring in every region of the United States and reverse mortgage schemes have the potential to increase substantially as demand for these products rises in demographically dense senior citizen jurisdictions.

For its part, the FBI continues to develop new ways to both detect and combat these fraudsters. We are working with our partners at all levels of law enforcement and within regulatory agencies and using the full array of investigative techniques to find and stop criminals before the fact rather than after the damage has been done.

Most recently, Nigerian letter frauds combined the threat of impersonation fraud with a variation of an advanced fee scheme in which correspondence from Nigeria offers the recipient the opportunity to share in a percentage of millions of dollars that the author, a self-proclaimed government official, is trying to transfer illegally out of Nigeria. The scheme relies on convincing a willing victim to send money to the author of the letter in Nigeria in several installments of increasing amounts for a variety of reasons.

To combat the numerous fraudsters who would do our citizens harm, the Federal Bureau of Investigation and the National White Collar Crime Center established the Internet Crime Complaint Center, IC–3. The IC–3 serves as a vehicle to receive, develop and refer criminal complaints regarding the rapidly expanding arena of Internet fraud. It gives the victims of Internet fraud a convenient and easy-to-use reporting mechanism that alerts authorities of suspected criminal or civil violations.

Through the IC–3, we are also establishing effective alliances with industry, allowing us to leverage both intelligence and subject matter expert resources. In 2012, IC–3 received complaints from more than 42,000 victims over the age of 60 with total reported losses of more than $115 million.

The more prevalent scams reported to IC–3 which target the elderly are romance scams, lottery scams, 419-type letters, also re-

ferred to as Nigerian scams, and the grandparent scam. The grandparent scam is a telephone scam targeting grandparents and involved fraudsters calling elderly individuals claiming to be a grandson, granddaughter or other young relative in a legal or financial crisis. The crisis generally involves a claim of being arrested or in a car accident in another country. The callers create a sense of urgency and make a desperate plea for money, begging the grandparents not to tell the parents, while often crying on the phone to help prevent the potential victims from discovering the scam.

With jurisdiction over both Federal and private insurance programs, the FBI is also actively involved in the health care fraud prevention partnership and the cabinet level health care fraud prevention and enforcement team. Since the inception of the Medicare fraud strike force, prosecutors filed more than 700 cases, charging more than 1,400 defendants, who collectively billed the Medicare program more than $4 billion. Over 900 defendants pleaded guilty and over 100 others were convicted in jury trials, and more than 700 defendants were sentenced to imprisonment for an average term of more than 45 months.

By working together to stop fraud, we can ensure America's hard earned dollars are used to care for the sick and we can keep our Nation's health care system strong for those who need it both now in and in the future.

Chairman Terry, Ranking Member Schakowsky, I would like to thank you again for this opportunity to discuss the FBI's efforts to combat fraud against our nation's senior citizens. I am now happy to answer any questions that you may have.

Mr. TERRY. Thank you very much.

[The prepared statement of Mr. Campbell follows:]

Department of Justice

STATEMENT OF

JOSEPH S. CAMPBELL
DEPUTY ASSISTANT DIRECTOR
CRIMINAL INVESTIGATIVE DIVISION
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON COMMERCE, MANUFACTURING AND TRADE
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES

ENTITLED

"FRAUD ON THE ELDERLY:
A GROWING CONCERN FOR A GROWING POPULATION"

PRESENTED

MAY 16, 2013

Statement of Joseph S. Campbell
Deputy Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation
U.S. Department of Justice
Before the Subcommittee on Commerce, Manufacturing and Trade
Committee on Energy and Commerce
U.S. House of Representatives
May 16, 2013

Chairman Terry, Ranking Member Schakowsky and members of the Subcommittee, thank you for the opportunity to discuss the Federal Bureau of Investigation's efforts to combat fraud against our nation's seniors. I am pleased to appear before the subcommittee today to address this important issue.

At the beginning of 2011, the first of our nation's baby boomers reached the age of 65. Since then, thousands a day are also reaching that milestone. They have many reasons to celebrate. Senior citizens are most likely to have a "nest egg," to own their home, and to have excellent credit. Unfortunately, these are also many of the same qualities which make them so attractive to con artists.

As you may already be aware, the FBI participates in a number of working groups and task forces dedicated to combating significant frauds against our nation's citizens. From mortgage and health care fraud task forces to interagency groups such as the Elder Justice Interagency Working Group (EJWG), many of those resources are focused on preventing, detecting, and combating those frauds which harm senior citizens. Unfortunately, though, frauds are limited only to the imagination of those who commit such egregious crimes.

Reverse Mortgage Fraud Schemes

Unscrupulous loan officers, mortgage companies, investors, loan counselors, appraisers, builders, developers, and real estate agents are exploiting Home Equity Conversion Mortgages (HECMs)—also known as reverse mortgages—to defraud senior citizens. They recruit seniors through local churches, investment seminars, and television, radio, billboard, and mailer advertisements, and commit fraud primarily through equity theft, foreclosure rescue, and investment schemes. HECM-related fraud is occurring in every region of the United States, and reverse mortgage schemes have the potential to increase substantially as demand for these products rises in demographically dense senior citizen jurisdictions.

Equity theft schemes are the most common method used by mortgage fraud perpetrators to exploit HECMs. Perpetrators—often with the aid of straw buyers—execute a scheme designed to withdraw false equity from properties. They typically identify foreclosed, distressed, or abandoned properties (or buyers) using information contained within county deed records. Perpetrators purchase the properties using straw buyers who commit occupancy fraud by fraudulently stating they will be using the property as their primary residence. They then recruit seniors to "purchase" the properties from the straw buyers by transferring the property deeds to the seniors with no exchange of money. After the seniors have occupied the property for at least 60 days, the perpetrators arrange for the seniors to obtain HECMS, and—with the aid of a fraudulently inflated appraisal—encourage them to request lump sum disbursements of the equity. The perpetrators, often in collusion with the settlement attorney, abscond with all of the equity at closing.

Foreclosure rescue schemes are used by mortgage fraud perpetrators to attract senior citizens who are in jeopardy of losing their homes to foreclosure, with the promise that their reverse mortgage programs will prevent this from occurring. Senior citizens are enticed by originators, investment representatives, or financial relief consultants and are initially led to believe they are obtaining a reverse mortgage. They are subsequently informed that they do not qualify for the reverse mortgage program, but that they do qualify for another mortgage loan type that they offer. The perpetrators then locate an investor willing to act as a straw buyer; order fraudulent home repairs; complete an inflated appraisal; and obtain a forward mortgage subsequently transferring the property away from the seniors and pocketing the equity. The seniors are often notified by the investor/owner to either repurchase the home at a higher price or find alternative living arrangements.

Investment schemes are similar to equity theft schemes and are used by mortgage fraud perpetrators to steal the HECM loan proceeds under the guise of investing it in an annuity, real estate, or other investment product. The perpetrators of this scheme are often affiliated with the originator of the HECM loan and cross-sell the investment product to the victim.

For its part, the FBI continues to develop new ways to both detect and combat mortgage and other financial frauds, including collecting and analyzing data to spot emerging trends and patterns. We are working with our partners at all levels of law enforcement and within regulatory agencies. And we are using the full array of investigative techniques to find and stop criminals before the fact, rather than after the damage has been done.

Telemarketing/Internet Fraud

Internet fraud is defined as any illegal activity involving one or more components of the Internet, such as websites, chat rooms, and/or email. Internet fraud involves the use of the Internet to communicate false or fraudulent representations to consumers. These crimes may include, but are certainly not limited to, advance-fee schemes, lottery scams, and identity theft. Unfortunately, the variety of schemes is limited only by the imagination of the con artists who offer them.

An advance fee scheme occurs when the victim pays money to someone in anticipation of receiving something of greater value—such as a loan, contract, investment, or gift—and then receives little or nothing in return. This type of scheme may involve the sale of products or services, the offering of investments, lottery winnings, "found money," or many other "opportunities." Clever con artists will offer to find financing arrangements for their clients who pay a "finder's fee" in advance. They require their clients to sign contracts in which they agree to pay the fee when they are introduced to the financing source. Victims often learn that they are ineligible for financing only after they have paid the "finder" according to the contract. Such agreements may be legal unless it can be shown that the "finder" never had the intention or the ability to provide financing for the victims.

Most recently, letter fraud originating in Nigeria combine the threat of impersonation fraud with a variation of an advance fee scheme in which correspondence from Nigeria offers the recipient the "opportunity" to share in a percentage of millions of dollars that the author—a self-proclaimed government official—is trying to transfer illegally out of Nigeria. The recipient is encouraged to send information to the author, such as a bank name and account numbers and/or other identifying information using a fax number or email address provided. The scheme relies on convincing a willing victim, who has demonstrated a "propensity for larceny" by responding to the invitation, to send money to the author of the letter in Nigeria in several installments of increasing amounts for a variety of reasons.

Payment of taxes, bribes to government officials, and legal fees are often described in great detail with the promise that all expenses will be reimbursed as soon as the funds are spirited out of Nigeria. In actuality, the millions of dollars do not exist, and the victim eventually ends up with nothing but loss. Once the victim stops sending money, the perpetrators have been known to use the personal information and checks that they received to impersonate the victim, draining bank accounts and credit card balances. While such an invitation impresses most law-abiding citizens as a hoax, millions of dollars in losses are caused by these schemes annually. Some victims have been lured to Nigeria, where they have been imprisoned against their will along with losing large sums

of money. The Nigerian government is not sympathetic to victims of these schemes, since the victim actually conspires to remove funds from Nigeria in a manner that is contrary to Nigerian law. The schemes themselves violate section 419 of the Nigerian criminal code, hence the label "419 fraud."

To combat the numerous fraudsters who would do our citizens harm, the Federal Bureau of Investigation (FBI) and the National White Collar Crime Center (NW3C) established the Internet Crime Complaint Center (IC3).

The IC3's mission is to serve as a vehicle to receive, develop, and refer criminal complaints regarding the rapidly expanding arena of cyber crime. The IC3 gives the victims of cyber crime a convenient and easy-to-use reporting mechanism that alerts authorities of suspected criminal or civil violations. The IC3 accepts online Internet crime complaints from either the actual victim or from a third party to the complainant. For law enforcement and regulatory agencies at the federal, state, local, and international level, the IC3 provides a central referral mechanism for complaints involving Internet related crimes. For law enforcement and regulatory agencies at the federal, state, local, and international level, the IC3 provides a central referral mechanism for complaints involving Internet related crimes. As Internet crime complaints are reported online, the IC3 electronically compiles the data. Trained analysts review and research each complaint, disseminating information to the appropriate federal, state, local, or international law enforcement or regulatory agencies for criminal, civil, or administrative action, as appropriate. Significant and supplemental to partnering with law enforcement and regulatory agencies, it will remain a priority objective of the IC3 to establish effective alliances with industry. Such alliances will enable the IC3 to leverage both intelligence and subject matter expert resources, pivotal in identifying and in crafting an aggressive, proactive approach to combating cyber crime.

Since its inception, the IC3 has received complaints crossing the spectrum of cyber crime matters, to include online fraud in its many forms including Intellectual Property Rights (IPR) matters, Computer Intrusions (hacking), Economic Espionage (Theft of Trade Secrets), Online Extortion, International Money Laundering, Identity Theft, and a growing list of Internet facilitated crimes. Since June 2000, it has become increasingly evident that, regardless of the label placed on a cyber crime matter, the potential for it to overlap with another referred matter is substantial.

Health Care Fraud

Fraud, waste, and abuse in our health care system is a problem that affects both public and private payers, draining critical resources from our health care system, and contributing to the rising cost of health care for all. Taxpayer dollars lost to fraud, waste,

and abuse harm not just the Federal government, but everyone, and, particularly some of our most vulnerable citizens.

The Obama Administration has made important strides in reducing fraud, waste, and abuse across the government. In Fiscal Year (FY) 2012, the government's health care fraud prevention and enforcement efforts recovered $4.2 billion in taxpayer dollars. This is the highest annual amount recovered from individuals and companies who attempted to defraud seniors and taxpayers or who sought payments to which they were not entitled. [i]

The FBI is the primary agency for exposing and investigating health care fraud, with jurisdiction over both federal and private insurance programs. We use our analytic expertise to identify key trends and tap into our investigative partnerships with federal, state, and local agencies, as well as our relationships with national groups and associations, to uncover fraud. Our field offices also proactively target fraud through coordinated initiatives, task forces and strike teams, and undercover operations.

The FBI is also actively involved in the Healthcare Fraud Prevention Partnership. This voluntary, collaborative arrangement uniting public and private organizations is the next step in the administration's efforts to combat health care fraud and safeguard health care dollars to better protect taxpayers and consumers.

The new partnership is designed to share information and best practices in order to improve detection and prevent payment of fraudulent health care billings. Its goal is to reveal and halt scams that cut across a number of public and private payers. The partnership will enable those on the front lines of industry anti-fraud efforts to share their insights more easily with investigators, prosecutors, policymakers and other stakeholders. It will help law enforcement officials to more effectively identify and prevent suspicious activities and use the full range of tools and authorities provided by the Affordable Care Act and other essential statutes to combat and prosecute illegal actions.

We are also active participants in the Administration's Health Care Fraud Prevention and Enforcement Action Team (HEAT). HEAT was established in 2009 as a new effort with increased tools and resources, and a sustained focus by senior level leadership to enhance collaboration between the Departments of Health and Human Services (HHS) and Justice (DOJ). With the creation of the new HEAT effort, DOJ and HHS pledged a cabinet-level commitment to prevent and prosecute health care fraud. One of the missions of HEAT is to build upon existing partnerships between DOJ and HHS, such as the Medicare Fraud Strike Force Teams, to reduce fraud and recover taxpayer dollars.

The first Medicare Fraud Strike Force was launched in March 2007 as part of the South Florida Initiative. For the period of May 7, 2007, through September 30, 2012, Medicare Fraud Strike Force prosecutors filed more than 724 cases charging more than 1,476 defendants who collectively billed the Medicare program more than $4.6 billion; 918 defendants pleaded guilty and 105 others were convicted in jury trials; and 745 defendants were sentenced to imprisonment for an average term of more than 45 months[ii].

Senior citizens involvement is a key component of all of the Medicare anti-fraud efforts. Alert and vigilant beneficiaries, family members, and caregivers are some of our most valuable partners in stopping fraudulent activity. We encourage Medicare beneficiaries to review their Medicare billing statements and other medical reports in order to spot unusual or questionable charges. If a Medicare beneficiary suspects fraud, they should call 1-800-Medicare to report it.

By working together to stop fraud, like we are doing in the successful Strike Force model, we can ensure that we are safeguarding taxpayer dollars and keeping our nation's health care system strong for those who need it, both now and in the future.

Conclusion

In conclusion, as you have heard, fraud targeting our senior citizens exists in many forms, is creative in its approach, and can often leave our most vulnerable citizens with little to no savings to enjoy a time in life they've earned. The FBI, in partnership with our federal, state, and local partners is committed to identifying this threat where it exists and taking aggressive action in response.

Chairman Terry, Ranking Member Schakowsky, I would like to thank you again for this opportunity to discuss the FBI's efforts to combat fraud against our nation's senior citizens. I am now happy to answer any questions that you may have.

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[i] FY 2012 Health Care Fraud and Abuse Control Act (HCFAC) report

Mr. TERRY. Now, Mr. Harwood, you are recognized for 5 minutes.

STATEMENT OF CHARLES HARWOOD

Mr. HARWOOD. Thank you, Chairman Terry, Ranking Member Schakowsky and members of the subcommittee. I am Charles Harwood, acting director of the Bureau of Consumer Protection at the Federal Trade Commission. The FTC has submitted an official statement for the record. My remarks and responses to questions are based on that statement, but they are my views.

Seniors are among the many victims of the consumer fraud schemes targeted by the FTC. Three Commission efforts, one concerning work-at-home scams, one concerning prize or lottery fraud, and one concerning identity theft illustrate our law enforcement and education efforts on behalf of senior consumers.

Many Americans, including seniors, living on fixed income or with limited ability to work outside the house look for ways to supplement their incomes by working from home. Opportunistic scam artists take advantage of this market by selling bogus work-at-home programs that in reality, just deplete the consumer's resources even further.

This past February, the Commission sent out redress checks to more than 50,000 consumers as a result of our successful law enforcement action against the deceptively named Real Wealth Program, a work-at-home scheme that targeted seniors. In its mailings to consumers, Real Wealth claimed "All I do is mail 30 postcards every day and I make an extra $350 a week," and, "collect up to $9,250 with my simple 3-minute form. In fact, consumers who responded received nothing, or at most, they received a booklet on how to pitch the very same scam to other consumers.

The case highlights our work with partners. First, it was referred to us by AARP legal counsel for the elderly, a local legal services provider here in D.C. And second, we partnered with the AARP Fraud Fighter Call Center to offer interested consumers one-on-one counseling about the fraud.

Prize and lottery fraud is also on the Commission's radar scream. Consumers between 65 and 74 years of age are more likely to be victims of such scams, according to the Commission's recent fraud report, which has already been referred to, and which was a survey of common consumer fraud schemes.

On the enforcement side, the Commission has not only gone after the perpetrators of such lottery frauds, but it has also pursued a money transfer company, Money Gram, that allegedly allowed its system to be used by telemarketers pitching prize and lottery fraud.

Complementing our law enforcement efforts, an innovative partnership with the AARP foundation enables the Commission to refer individuals for peer counseling who are over the age of 60, and who have called the FTC complaining they have been the victim of certain frauds, including prize and lottery frauds.

The Commission is the Federal clearinghouse for consumer identity theft complaints, which we share with other Federal, State and local criminal prosecutors, and we have been the leaders in identify theft education for both business and consumers. Just last week,

the Commission held a workshop to collect information about the extent to which seniors are vulnerable to identify theft. In particular, the Commission is concerned about tax, Medicare and nursing-home related identity theft. The Commission has invited public comment on the issues discussed at the workshop, and as we learn more, we will share our findings with our civil and criminal law enforcement partners and use the information to advance our education and outreach efforts.

As a part of our consumer protection mission, the Commission tries to anticipate how fraud schemes may evolve and we watch for emerging threats. We are watching closely two developments that may give rise to frauds directed towards seniors in the coming years.

One development relates to health care coverage. We know from experience that changes in government programs create fertile conditions for fraud schemes. Scams involving questionable national medical discount plans have been around for a while now and have been the target of a number of FTC and State law enforcement actions.

As the Affordable Care Act is implemented, the discount plan scam could easily evolve into an ACA-related scam sewing confusion and tricking consumers, including seniors, into paying for worthless products or divulging financial account information.

The second development concerns the Internet. A recent Pew study shows that the number of adults over 65 who use the Internet is increasing rapidly. As more seniors use the Internet, more will be exposed to fraudulent online offers. We see more Internet fraud affecting—we will see more Internet frauds in the future affecting seniors, we think. Indeed it is conceivable that the Internet scammers will actually target the online seniors as their numbers increase.

Finally, education is an essential part of our consumer protection and fraud prevention work. The Commission is widely known for its plain language information on dozens of issues, including family emergencies, which Mr. Campbell talked about, also known as the grandparent scam and which at least one member talked about, fraudulent prize offers, and government imposter scams.

We have partnered with other government agencies, State and local law enforcement agencies and community resources to disseminate the information.

In addition to our broad-based outreach efforts, in a new initiative, the Commission is turning to activities directors and other professionals in facilities where boomers and seniors live and visit for guidance on the kinds of information that people will find useful, the messengers they trust, and the delivery mechanisms they are likely to pay attention to. Ultimately we expect to provide these professionals with fraud awareness materials and activities that they can tailor to and share with their particular communities.

Thank you for the opportunity to describe the Commission's consumer protection work on behalf of older Americans.

Mr. TERRY. Thank you.

[The prepared statement of Mr. Harwood follows:]

PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION

Before the

SUBCOMMITTEE ON COMMERCE, MANUFACTURING, AND TRADE

of the

HOUSE ENERGY AND COMMERCE COMMITTEE

on

Elder Fraud and Consumer Protection Issues

Washington, DC
May 16, 2013

I. INTRODUCTION

Chairman Terry, Ranking Member Schakowsky, and Members of the Subcommittee, I am Charles Harwood, Acting Director of the Bureau of Consumer Protection of the Federal Trade Commission ("Commission" or "FTC").[1] I appreciate the opportunity to present the Commission's testimony on current fraud threats to older Americans,[2] emerging threats to baby boomers[3] in the next several years, and the Commission's work to protect consumers.

All consumers, including seniors, are potential targets for fraudsters, and combatting fraud is a critical component of the Commission's consumer protection mission. Although seniors are not necessarily defrauded at greater rates than younger consumers, certain types of scams are likely to affect older Americans. Our efforts to recognize these scams and anticipate future areas of concern are more relevant than ever, because the population of older Americans is now greater than at any point in history and is growing quickly.[4] The Commission accomplishes its mission through aggressive law enforcement and a vigorous, ongoing campaign to educate consumers on how to avoid scams.

This testimony describes the Commission's law enforcement and policy initiatives to respond to the current threats to seniors, outlines some emerging threats, and lists some of the

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[1] This written statement presents the views of the Federal Trade Commission. Oral statements and responses to questions reflect the views of the speaker and do not necessarily reflect the views of the Commission or any Commissioner.

[2] References in this testimony to "seniors" and "older Americans" mean the population 65 years and over, unless noted otherwise.

[3] "Baby boomers" refers to people born from mid-1946 to 1964. Carrie A. Werner, U.S. Department of Commerce, U.S. Census Bureau, *The Older Population: 2010* (Nov. 2011), at note 6, *available at* www.census.gov/prod/cen2010/briefs/c2010br-09.pdf.

[4] The U.S. Census Bureau reported that, in 2010, more people were 65 years or older than in any previous census, and that the population 65 years and older grew at a faster rate than the total population in the prior decade. Between 2000 and 2010, the total population increased by 9.7 percent, while the population 65 and older grew at a rate of 15.1 percent. *See supra* note 3, at 4.

FTC's consumer education and outreach efforts to combat these threats.

II. CURRENT THREATS

The current threats to seniors include the wide array of frauds that affect the American population broadly, ranging from illegal telemarketing and online scams to identity theft. The Commission has a strong commitment to monitoring the marketplace to understand the threats to consumers at large. To identify these threats, the Commission looks to our law enforcement experience, the complaints we collect directly from consumers, the empirical data we gather in the form of surveys, and our collaborative initiatives with law enforcement partners, consumer groups, industry, academics, and others.

A. Threats Generally

Virtually every law enforcement case the Commission brings affects seniors. While there are cases in which scammers may specifically target seniors, the FTC's law enforcement experience indicates that scammers are often indiscriminate in whose money they choose to take. Some of the scams the Commission prosecutes that affect older Americans include those involving: (1) sweepstakes, prize promotions, and lotteries;[5] (2) timeshare sales and resales;[6] (3) medical alert devices;[7] (4) investments;[8] (5) discount medical and prescription services;[9]

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[5] *See FTC v. National Awards Serv. Advisory, LLC*, No. CV-10-5418 (N.D. Cal. Nov. 30, 2010); *United States v. Bezeredi*, No. CV5-1739 (W.D. Wash. Oct. 17, 2005).

[6] *See FTC v. Vacation Propy. Servs.*, No. 8:11-cv-00595 (M.D. Fla. Mar. 22, 2011).

[7] *See FTC v. Instant Response Sys.*, No. 1:13-cv-00976 (E.D.N.Y. Feb. 25, 2013).

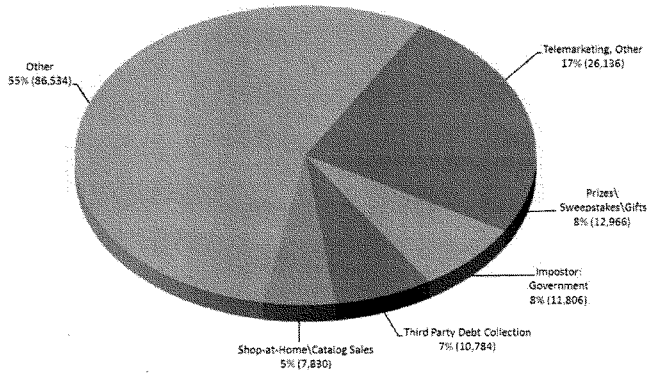
[8] *See FTC v. American Precious Metals, Inc.*, No. 0-11-cv-61072 (S.D. Fla. May 10, 2011); *FTC v. Premier Precious Metals, Inc.*, No. 12-cv-60504 (S.D. Fla. Mar. 20, 2012); *FTC v. Sterling Precious Metals, Inc.*, No.12-cv-80597 (S.D. Fla. June 4, 2012).

[9] *See FTC v. 9107-4021 Québec (d/b/a Med Provisions)*, No. 1:08CV1051 (N.D. Ohio Apr. 24, 2008); *FTC v. 6554962 Canada Inc., dba Union Consumer Benefits*, No. 1:08-cv-02309 (N.D. Ill. Apr. 28, 2008).

(6) business opportunity or work-from-home programs;[10] (7) bogus advance fee loans; and (8) charitable donations.[11]

In addition, our Consumer Sentinel Complaint database, the online database of complaints maintained by the Commission, shows that for calendar year 2012, complainants age 60 and older complained primarily about telemarketing calls, government imposter scams, third-party debt collectors, prizes/sweepstakes/gifts scams, and shop-at-home sales.[12]

Top Product Service Codes for Consumers Age 60 and Over in Consumer Sentinel Network Complaints[1]
January 1 – December 31, 2012



[1] Percentages are based on the 156,096 consumers reporting age 60 and over. These figures exclude Do Not Call registry and identity theft complaints.

Note: The section of the chart labeled "Other" represents complaints regarding over 160 other types of products, such as counterfeit checks, credit cards, unsolicited emails, advance-fee loans and credit arrangers, and spyware/adware/malware.

Source: Consumer Sentinel Network.

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[10] *See FTC v. The Tax Club,* No. 13-cv-210 (S.D.N.Y. Jan. 9, 2013); *FTC v. American Bus. Builders, LLC,* No. 13-CV-02368 (D. Ariz. Nov. 6, 2012); *FTC v. Real Wealth, Inc.*, No. 4:10-CV-00060 (W.D. Mo. Jan. 21, 2010).

[11] *See FTC v. Handicapped & Disabled Workshops, Inc.*, No. CV-08-0908 (D. Ariz. May 13, 2008); *FTC v. Helping Hands of Hope*, No. CV-08-0909 (D. Ariz. May 13, 2008).

[12] Data from Consumer Sentinel Network. In calendar year 2012, the Consumer Sentinel Network received 1,692,363 complaints (excluding identity theft and do-not-call complaints). In 37% of those complaints (or 629,165), consumers reported their age. For information regarding the Consumer Sentinel Network, *see* http://www.ftc.gov/sentinel/index.shtm.

B. Specific Threats for Seniors

Although many scams affect seniors, this testimony will highlight two especially pernicious scams the Commission has recently taken efforts to combat, as well as threats to seniors from identity theft.

1. Work from Home Scams

In difficult economic times, many struggling Americans who cannot work outside the home due to physical, family, or other constraints look for ways to supplement their fixed incomes through honest work. Those conditions spell "opportunity" for con-artists who stand ready to ensnare them.

The Commission's case against Real Wealth, Inc. illustrates how the Commission can take quick action to shut down these scams and provide redress to consumers. AARP's Legal Counsel for the Elderly, a legal services office based in Washington, DC, alerted us about Real Wealth, and our investigation quickly led us into federal district court to seek an emergency order to shut down the company's deceptive practices. We alleged that Real Wealth engaged in a mass mail campaign promoting programs that would ostensibly allow consumers to make money by stuffing envelopes, addressing postcards, or engaging in other work from home. Some of the mailers appeared to target older consumers – one ad featured the photograph of an elderly man, while the caption touted earnings of $350 per week for simply mailing 30 postcards every day. The promise was illusory: there were no jobs that paid this steady income, and consumers, in the aggregate, lost more than $10.4 million. Following litigation, the Commission won a $10.4 million judgment against Real Wealth and its owner, Lance Murkin. In just the last month, the Commission has sent redress checks to 50,000 consumers injured by the Real Wealth scam.[13]

[13] *FTC v. Real Wealth, Inc.*, No. 4:10-CV-00060 (W.D. Mo. Jan. 21, 2010).

Further, the Commission included with the refund checks information about AARP's Fraud Fighter Call Center–where trained volunteers counsel older consumers one-on-one on how to recognize and avoid fraud. Thus, Real Wealth's victims were alerted to the opportunity to obtain this assistance.

2. Prize Promotion and Lottery Scams

Evidence indicates that seniors are more at risk for scams involving prize promotions than younger consumers. The Commission's Bureau of Economics just issued its third Fraud Report, which examined consumer experiences involving fraud. According to the Report, consumers in each of the age groups 55 to 64, 65 to 74, and 75 and older were in fact less likely to have been victims of several frauds we monitor than those between ages 45 to 54. This positive news, however, is countered by the Report's finding that older Americans are more likely to be targeted in prize promotion scams.[14]

The Commission has taken law enforcement action against prize promotion and lottery scam perpetrators, and has sought to cut off their source of funds. Prize promotion scammers often rely on money transfer services, such as Western Union and MoneyGram, or reloadable prepaid card services, such as Green Dot,[15] to perpetrate their scams. It is important for us not only to pursue the bad actors who commit the underlying fraud, but also to ensure that the money transfer businesses used by these fraudsters are appropriately monitoring for fraud and protecting consumers. This is precisely what we have accomplished in our settlement with MoneyGram,

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[14] The FTC's fraud survey found that consumers between 65 and 74 years of age were more likely to be victims of fraudulent prize promotions. FTC Bureau of Economics Staff Report, *Consumer Fraud in the Unites States, 2011* (April 2013) at 58-59.

[15] Western Union, MoneyGram, and Green Dot provide the consumer complaints they collect to the FTC, for inclusion in the Consumer Sentinel Database.

which paid $18 million in consumer redress to settle the FTC's charges that it had allowed its money transfer system to be used by fraudulent telemarketers to bilk U.S. consumers out of tens of millions of dollars.[16]

To address the serious concerns involving the impact of prize promotion and lottery scams on older consumers, the Commission also entered into an innovative pilot program with the AARP Foundation in February 2012.[17] As part of the program, the FTC partnered with the AARP Foundation to refer for individual peer counseling consumers over the age of 60 who have called the FTC's Consumer Response Center to complain that they had been victims of certain frauds, including lottery, prize promotion, and family emergency[18] scams. Last year, the AARP Foundation peer counselors successfully assisted 760 people[19] referred by the FTC, and more than 20 percent of consumers who provided details about the scams they encountered specifically mentioned sending money to Jamaica in connection with well-publicized lottery/sweepstake scams.

Further, the Commission continues its law enforcement activities, engages in dialogue with the money transfer and reloadable prepaid card industry, and conducts consumer education

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[16] *FTC v. MoneyGram Int'l, Inc.*, No. 1:09-cv-06576 (N.D. Ill. Oct. 19, 2009). The FTC charged that MoneyGram agents helped fraudulent telemarketers and other wrongdoers who tricked U.S. consumers, many of whom were seniors, into wiring money within the U.S. and to Canada after these consumers were falsely told they had won a lottery, were hired for a secret shopper program or were guaranteed loans. To settle the FTC's charges, in addition to paying $18 million in consumer redress, MoneyGram, the second-largest money transfer service in the U.S., implemented an anti-fraud and agent-monitoring program and agreed to provide fraud warnings to consumers to help them spot scams and save their money.

[17] This partnership began as a one-year pilot, but has now been extended.

[18] Family Emergency (also known as "grandparent") scammers pose as relatives or friends, calling or sending messages urging the consumer to wire money because the supposed friend or relative needs cash to help with an emergency.

[19] The AARP peer counselors provide one-on-one advice and guidance to consumers to help them avoid fraud in the future. The Foundation was able to reach approximately 50% of those consumers referred by the FTC. The consumers from whom they gathered data reported having lost approximately $10.6 million.

to curb fraud in this area.[20]

3. Identity Theft

In addition to identifying and combatting frauds that affect seniors, the Commission also recognizes their potential vulnerability to identity theft. Millions of consumers are victimized by identity thieves each year, and consumers spend substantial resources to repair the damage.

In 2012, and for the past 12 years, identity theft was the number one complaint category in the Consumer Sentinel Network.[21] Nineteen percent of those who complained about identity theft (and provided their age) reported being over the age of 60. While the FTC cannot extrapolate from this figure to the U.S. population at large, it nonetheless shows that tens of thousands of consumers 60 years and older self report that they have fallen victim to identity theft scams.

The Commission is actively studying how identity theft affects older Americans and the unique challenges facing these victims. Just last week, on May 7, the Commission held a workshop to collect information about the extent to which seniors are vulnerable to identity theft, the prevalence with which seniors are targeted by identity thieves, and the various types of identity theft schemes, such as tax, Medicare, and nursing home related identity theft. The workshop also discussed best practices for educating older consumers and their families about these issues. The Commission has invited public comment on these issues, and as we learn more, the Commission will share its findings with the Elder Justice Coordinating Council and

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[20] *See also FTC v. National Awards Serv. Advisory, LLC*, No. CV-10-5418 (N.D. Cal. Nov. 30, 2010); *United States v. Bezeredi*, No. CV5-1739 (W.D. Wash. Oct. 17, 2005).

[21] FTC *Consumer Sentinel Network Data Book for January – December 2012*, (Feb. 2013), at 3, available at http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2012.pdf.

other law enforcement partners.[22]

III. THREATS LIKELY TO INCREASE AS THE RESULT OF SHIFTS IN DEMOGRAPHICS

In addition to combatting current threats to consumers, the Commission keeps a careful watch on how known threats may evolve and examines the marketplace for emerging threats.

A. Fraud Relating to Healthcare

Decades of aggressive anti-fraud law enforcement have taught us that scammers capitalize on confusion in the marketplace and consumers' fear of losing needed benefits. In particular, we know from experience that any publicized changes in Medicare present ripe conditions for unscrupulous telemarketers. For example, in two recent cases, the Commission sued companies for allegedly peddling phony prescription drug discount products; threatening consumers that their failure to sign up for these services would cause the consumers to lose their Medicare benefits; misrepresenting that they were from the Social Security Administration, Medicare, or the consumer's bank in order to obtain the consumer's bank account information; and charging consumers hundreds of dollars and either delivering nothing or worthless discount cards.[23] In another action, we alleged that the defendants capitalized specifically on healthcare reform, inserting a clip of the President discussing his health care reform initiative into their own

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[22] The Elder Justice Coordinating Council was convened by the Secretary of the Department of Health and Human Services ("DHHS") in accordance with the Elder Justice Act of 2009. The Council is made up of heads of federal departments and other government entities, including the FTC, identified as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation. The Council's mission is to develop recommendations to the DHHS Secretary for the coordination of activities relating to elder abuse, neglect, and exploitation, and other crimes against elders. *See* http://www.ltcombudsman.org/sites/default/files/norc/elder-justice-coordinating-council-factsheet.pdf.

[23] *FTC v. 9107-4021 Québec (d/b/a Med Provisions)*, No. 1:08CV1051 (N.D. Ohio Apr. 24, 2008); *FTC v. 6554962 Canada Inc., dba Union Consumer Benefits*, No. 1:08-cv-02309 (N.D. Ill. Apr. 28, 2008).

deceptive television commercials for their purported health insurance product.[24]

The Commission has also sued other entities engaged in deceptive practices in the healthcare marketplace for seniors. For example, earlier this year, the Commission obtained settlements in two cases alleging deception in the sale of online placement services for senior care facilities.[25] In another case, the Commission alleged that CVS Caremark Corporation misrepresented the prices of certain Medicare Part D prescription drugs to seniors.[26] The deceptive claims, according to our complaint, caused many seniors and disabled consumers to pay significantly more for their prescription drugs than they expected and pushed them into the "donut hole"[27] sooner than they anticipated or planned.

The Commission anticipates that as the Affordable Care Act ("ACA") is implemented, scammers will exploit changes in Medicare to sow confusion and trick consumers into paying for worthless products or providing their financial account information. In fact, in February of this year, the Commission saw a marked increase in complaints about Medicare imposters relative to prior months. These consumer complaints, while not necessarily indicative of a trend, are nonetheless cause for concern. The Commission recently issued a warning to consumers about scammers who offer to send out national medical cards or otherwise use the ACA as a hook to collect personal and financial information.[28] The FTC will remain vigilant in policing these scams and distributing information on how to avoid them.

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[24] *See FTC v. Health Care One, LLC*, No. 8:10-cv-01161 (C.D. Cal. Aug. 3, 2010).

[25] *In the Matter of CarePatrol, Inc.*, Docket No. C-4379 (Dec. 3, 2012); *In the Matter of ABCSP Inc.*, Docket No. C-4378 (Dec. 3, 2012).

[26] *In the Matter of CVS Caremark Corporation*, Docket No. C-4357 (May 3, 2012).

[27] "Donut Hole" refers to the coverage gap where none of the Medicare holder's drug costs are reimbursed.

B. Internet Fraud

When the Commission considers emerging threats, we think about the shifting characteristics of the different demographic groups fraud affects. For example, a Pew Study shows that the number of adults over 65 who use the Internet is increasing rapidly.[29] With online usage may come more exposure to fraudulent offers online. This may include scams that purport to be collecting financial account data for inexpensive trial products and then deceptively enroll consumers into programs with recurring monthly charges,[30] or malware scams that purport to alert consumers to alleged viruses on their computers that can be fixed for a fee.[31] The Commission will remain watchful on how Internet scams affect aging baby boomers in coming years.

IV. COMBATTING FRAUD THROUGH CONSUMER EDUCATION AND OUTREACH

In addition to aggressive law enforcement, education is an equally essential tool in our consumer protection and fraud prevention work. The Commission's education and outreach program reaches tens of millions of people a year, mostly through our website where consumers can access print, video, and audio information [32] (and through media coverage of our work). The FTC is widely known for its plain language information on dozens of issues, including those that

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[28] *See* FTC Alert: Scammers Out to Trick Consumers Using the Supreme Court's Affordable Care Act Ruling, *available at* http://www.ftc.gov/opa/2012/07/aca.shtm.

[29] *See* Pew Research Center, Pew Internet Pew Internet & American Life Project, *Older Adults and Internet Use*, (June 2012) at 4 and 6-7, *available at* http://www.pewinternet.org/~/media//Files/Reports/2012/PIP_Older_adults_and_internet_use.pdf. According to the Report, from August 2008 to April 2012, the number of adults over 65 who use the Internet increased from 38% to 53%. However, as of April 2012, only 34% of adults 76 and older were online.

[30] *See FTC v. Jeremy Johnson,* No. 2:10-cv-02203 (D. Nev. Dec. 21, 2010).

[31] *See FTC v. Pecon Software, Ltd.,* No. 12-cv-7186 (S.D.N.Y. Sept. 24, 2012).

[32] Consumer information can be found in English at consumer.ftc.gov and in Spanish at consumidor.ftc.gov.

affect older consumers – for example, family emergency ("grandparent") scams[33] as well as scams related to prize offers,[34] sweepstakes and lotteries,[35] reverse mortgages,[36] health,[37] government imposters,[38] money wiring,[39] work-at-home programs,[40] and telemarketing.[41]

The Commission offers information for the general population and for specific demographic groups, such as people in mid-life and older, and disseminates the information through an informal network of partners that include other government agencies; state and local law enforcement organizations; and community resources, such as libraries, school systems, and advocacy organizations.

The most recent example of our partnership with other agencies is the Senior Identity Theft Workshop held on May 7. The workshop included speakers from the Social Security Administration, the Consumer Financial Protection Bureau, the Internal Revenue Service, and

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[33] *See* FTC Consumer Information, Family Emergency Scams, *available at* http://www.consumer.ftc.gov/articles/0204-family-emergency-scams.

[34] *See* FTC Consumer Information, Prize Offers, *available at* http://www.consumer.ftc.gov/articles/0199-prize-offers.

[35] *See* Jamaican Fraudsters Targeting U.S. Consumers, *available at* http://www.consumer.ftc.gov/articles/0119-jamaican-fraudsters-targeting-us-consumers.

[36] *See* FTC Consumer Information, Reverse Mortgages, *available at* http://www.consumer.ftc.gov/articles/0192-reverse-mortgages.

[37] *See* FTC Consumer Information, Miracle Health Claims, *available at* http://www.consumer.ftc.gov/articles/0167-miracle-health-claims.

[38] *See* FTC Consumer Information, Government Imposter Scams, *available at* http://www.consumer.ftc.gov/articles/0048-government-imposter-scams.

[39] *See* FTC Consumer Information, Using Money Transfer Services, *available at* http://www.consumer.ftc.gov/articles/0090-using-money-transfer-services.

[40] *See* FTC Consumer Information, Work-at-Home Businesses, *available at* http://www.consumer.ftc.gov/articles/0175-work-home-businesses.

[41] *See* FTC Consumer Video, Hang Up on Fraudulent Telemarketing, *available at* http://www.consumer.ftc.gov/media/video-0036-hang-fraudulent-telemarketing.

the U.S. Department of Health and Human Services. The Commission is also currently working with the Department of Veterans Affairs on Military Consumer Protection Day, which is July 17, to provide financial protection information to veterans and service members.

In addition to our current broad-based outreach efforts, the Commission is planning a new campaign that will focus on delivering fraud awareness tips to mid-life and older consumers. In preparation, we are talking to activities directors and other professionals in facilities where boomers and seniors live and visit, for guidance on the kinds of information that people find useful, the messengers they trust, and the delivery mechanisms they are likely to pay attention to. Ultimately, the Commission expects to provide these professionals with fraud awareness materials and activities they can tailor to -- and share with -- their own particular community.

V. CONCLUSION

The Commission will continue to play a central role in the battle to protect seniors from fraud and related threats, and looks forward to working with you on this important issue.

Mr. TERRY. Ms. Hillebrand, you are recognized for your 5 minutes.

STATEMENT OF GAIL HILLEBRAND

Ms. HILLEBRAND. Thank you, Chairman Terry, Ranking Member Schakowsky and distinguished members for the opportunity to speak with you today about the Consumer Financial Protections Bureau's work to address the devastating problem of elder financial exploitation.

The CPB's division of consumer education and engagement includes our office for the financial protection for older Americans. This office for older Americans is specifically dedicated to the financial health of Americans aged 62 and older.

Older Americans have assets that make them attractive targets for fraudsters. The net worth of U.S. households aged 65 and older was approximately $18 trillion in 2009. And these individuals and families may be victimized by a broad range of perpetrators, including scam artists, family members, caregivers, financial advisors, home repair contractors, and even fiduciaries.

One national prevalence study found that an estimated 5.2 percent of Americans, 60 and over experienced financial mistreatment by a family member, and other studies indicate that most incidents of elder financial abuse are never reported to authorities, but remain under the radar. After a fraud, older Americans have very little time and few opportunities to recoup those lost savings.

So to address elder financial exploitation, we recognize that collaboration across and among levels of government is critical. We participate in the congressionally mandated Elder Justice Coordinating Council as a venue for that collaboration.

I would like to discuss a few of the current initiatives at the CFPB to address financial issues and problems faced by older Americans. First, older Americans can lose money because they trust the wrong person to give them financial advice. There are a bewildering array of titles for persons claiming special expertise in providing financial advice to seniors, and it can be very hard to distinguish those persons holding an easy-to-obtain credential from a fully-trained professional.

To begin to address this challenge, we studied the variety of so-called senior designations and issued a report discussing the risks for older consumers who may rely on these designations. That report is entitled Senior Designations for Financial Advisors: Reducing Consumer Confusion and Risks.

Second, we are helping seniors, caregivers and others in the community avoid fraud and scams. We have partnered with the FDIC to build a new module for the FDIC's Money Smart Program, called Money Smart for Older Adults. The new material identifies common financial issues that face seniors, including how to spot scams and frauds, and we will we jointly issuing that material for use across the Nation this summer.

Third, older Americans who experience declining mental capacity and capacity to handle their finances face special challenges. Even mild cognitive impairment can disastrously reduce an older adult's ability to detect a fraud or scam. 22 percent of Americans over 70

experience mild cognitive impairment, and experts say that the ability to handle finances is one of the very first life skills to go, often well before family members observe the more visible signs of diminished capacity. This means some seniors need a family member or other person to handle their money, and those legally authorized fiduciaries are a critical source of support, but they often have no training in how to handle someone else's money. Some may fall victim to fraud or even engage in it.

So for the untrained person, often a family member who is asked to step in and handle someone else's money, the CFPB is developing a set of guides for lay fiduciaries. These guides will explain what a fiduciary does, how to properly segregate and account for funds, and how to protect the assets of seniors from frauds by others.

Fourth, there is a role for financial institutions and for those who regulate them. Bank tellers may be among the first persons to observe signs that an older adult may be the victim of financial abuse, but the bank may be unsure whether Federal privacy laws permit them to report their suspicion to social service or law enforcement agencies. So the CFPB is developing strategies for clearly communicating with financial institutions that the Gramm-Leach-Bliley Act does not prohibit them from sharing these suspicions with law enforcement and adult protective services.

Finally, I would like to mention two resources that CFPB offers to all consumers that are of use to older Americans. At our Web site, consumerfinance.gov, we offer Ask CFPB. Ask CFPB is an interactive online tool. It provides consumers with short, unbiased answers to their financial questions and includes a special tag for issues that may be of particular interest to seniors.

We also accept consumer complaints through our Consumer Response program. And Consumer Response is handling complaints on a wide variety of financial products, including things like credit cards, mortgages and credit reports.

Elder financial exploitation is a serious problem for our country. I commend you, Chairman Terry, Ranking member Schakowsky, and all of the members of the subcommittee for holding this hearing to put this issue in the spotlight. Thank you.

[The prepared statement of Ms. Hillebrand follows:]

Testimony of Gail Hillebrand
Associate Director, Division of Consumer Education and Engagement
Consumer Financial Protection Bureau

Before the House Committee on Energy and Commerce,
Subcommittee on Commerce, Manufacturing, and Trade

May 16, 2013

Thank you Chairman Terry, Ranking Member Schakowsky, and distinguished members of the Committee for the opportunity to speak with you today about the Consumer Financial Protection Bureau and its work to address the devastating problem of elder financial exploitation.

My name is Gail Hillebrand and I am honored to represent the CFPB today. Since the Bureau opened its doors in July, 2011, I have served as the Associate Director for the Division of Consumer Education and Engagement. The Office of Financial Protection for Older Americans is one of the offices within this Division with a Congressional mandate to focus on a particular part of the U.S. population.

CFPB Office for Older Americans

The CFPB's Office for Older Americans is specifically dedicated to the financial health of Americans aged 62 and older. The Office's statutory mandate is to help provide consumers aged 62 and over with the tools they need to protect themselves from financial exploitation and to make sound financial decisions.

The evidence is clear: older Americans have assets that make them attractive targets of fraudsters. The net worth of U.S. households aged 65+ was approximately $18 trillion in 2009.[1] Older adults may be victimized by a broad range of perpetrators, including scam artists, family members, caregivers, financial advisers, home repair contractors, and fiduciaries such as agents under power of attorney and court-appointed guardians. For example, a national prevalence study found that an estimated 5.2 percent of Americans 60+ experience financial mistreatment by a family member.[2] Other studies document that most incidents of elder financial exploitation go unreported and "under the radar."[3] Once the fraud occurs, older Americans have little time and few resources to enable them to recoup lost savings.[4]

To address these serious challenges and carry out Congress' directives, the Office for Older Americans has placed a priority on preventing, detecting and redressing elder financial

[1] http://www.economics.harvard.edu/faculty/laibson/files/Age%2Bof%2BReason.pdf.
[2] Acierno, R., M. A. Hernandez, A. B. Amstadter, H. S. Resnick, K. Steve, W. Muzzy, and D. G. Kilpatrick."Prevalence and Correlates of Emotional, Physical, Sexual and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study". *American Journal of Public Health* 100(2): 292–97.
[3] Lifespan of Greater Rochester, Inc., et al., *Under the Radar: New York State Elder Abuse Prevention Study* (Rochester, NY: Lifespan of Greater Rochester, Inc., May 2011).
[4] Robert E. Roush, et al., Why Clinicians Need to Know about the Elder Investment Fraud and Financial Exploitation Program, 36 Generations (Issue No. 2, Summer 2012), at 94-97.

exploitation. To do so, we recognize that collaboration is critical. The CFPB participates, along with eleven other federal agencies, in the Congressionally-established Elder Justice Coordinating Council. The Council provides a forum to spotlight the disastrous impact of financial exploitation and catalyze the development of a national prevention strategy. The Council has heard from national experts and is developing a blueprint for coordinated federal action.

In addition to our partners in government, the Bureau, through our Office for Older Americans and in other ways, engages with non-profits, community organizations and industry groups. For example, we participate in a working group with the Financial Services Roundtable that addresses issues such as enhancing the capacity of financial institutions to report suspected elder financial fraud. We also worked closely with the National Endowment for Financial Education, convening a forum of national experts on diminished capacity to make financial decisions, and we are using the information from that forum in our work.

Office for Older Americans' Initiatives

The CFPB's Office for Older Americans is combatting elder financial exploitation by identifying specific challenges and conducting initiatives to respond to those challenges.

- PROBLEM: Older Americans often don't know who to trust to provide financial advice, and sometimes trust the wrong financial adviser.
    - CFPB INITIATIVE: On April 18, 2013, we filed a report and recommendations to federal and state policymakers regarding financial advisers holding senior designations pursuant to Congress' directive in the Dodd-Frank Act. The report, entitled **Senior Designations for Financial Advisers: Reducing Consumer Confusion and Risks,**[5] found that some financial advisers with "senior designations" target older consumers for the sale of inappropriate and sometimes fraudulent financial products and services. We found that financial advisers use "senior designations" which imply that they have advanced training or expertise in the financial needs of older consumers—and that consumers are confused by the names and acronyms these advisers use. The report recommends reducing consumer confusion and augmenting consumer protection by improving the: (1) dissemination of information and consumer education around senior designations; (2) standards for the acquisition of senior designations; (3) standards for senior designee conduct; and (4) enforcement related to the misuse of senior designations.
- PROBLEM: Older Americans, their caregivers, and others in the community don't know how to spot and avoid frauds and scams.
    - CFPB INITIATIVE: The Office is developing an awareness program called **Money Smart for Older Adults,** in collaboration with the FDIC. This community education program uses the FDIC's well established Money Smart

[5] http://files.consumerfinance.gov/f/201304_CFPB_OlderAmericans_Report.pdf.

training approach. The Bureau and the FDIC worked together to prepare content on common issues facing seniors, including how to identify a potential scam or fraud, and that module will be released jointly by the FDIC and the CFPB later in 2013. These training materials focus on preventing, recognizing, and reporting elder financial exploitation, and will serve as training for older consumers and other key audiences.

- PROBLEM: Many older Americans experience declining capacity to handle finances, which can make them vulnerable. Even mild cognitive impairment disastrously reduces an older adult's ability to detect fraud or a scam—and 22 percent of Americans over 70 have mild cognitive impairment.[6] One in nine Americans aged 65+ has Alzheimer's disease.[7] While many older Americans retain full financial capacity, those with diminished capacity often need a surrogate to handle their money. Those "lay fiduciaries" are a critical source of help and support, but often have no training. Some even engage in fraud.

    - CFPB INITIATIVE: We are developing a set of **guides for "lay fiduciaries."** We recognize that family members and other fiduciaries often have no experience handling someone else's money, and they need help so they can properly handle it. These user-friendly "how-to" guides will be for agents under powers of attorney, guardians, trustees, Social Security representative payees, and VA fiduciaries. The Bureau will produce national guides; six sets of state-specific guides; and a replication manual for other states. The guides will explain what a fiduciary does, as well as record-keeping, limitations on comingling funds, and other critical basics to manage a vulnerable adult's money. In addition, the guides will teach people who make financial decisions for others to spot financial exploitation and protect assets from scams and frauds by third parties. We anticipate publishing these guides later this year.

- PROBLEM: Residents of assisted living and nursing facilities can become victims of financial fraud. The operators of those facilities may see that bills are going unpaid and residents are threatened with eviction, but they don't know how to intervene in cases of financial exploitation. Spotting the exploitation before it drains the senior's funds is in everyone's interest.

    - CFPB INITIATIVE: We are producing a **national guide for operators of congregate facilities.** It will provide them with skills to identify and intervene in exploitation cases further upstream and to have protocols for doing so. We already have offers from many national organizations and government entities to help distribute these much-anticipated guides later this year.

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[6] B.L. Plassman et al., "Prevalence of Cognitive Impairment without Dementia in the United States," *Archives of Internal Medicine* 148, no. 6: 427-34.
[7] Alzheimer's Association, *2013 Alzheimer's Disease Facts and Figures*, http://www.alz.org/downloads/facts_figures_2013.pdf.

- PROBLEM: Financial institution personnel observe signs that an older account holder may be the victim of financial exploitation, but they may be unsure whether federal privacy laws permit them to share their suspicions with social service and law enforcement agencies.

    - CFPB is developing strategies for communicating clearly to a spectrum of financial institutions that the **Gramm-Leach-Bliley Act** generally does not prohibit them from reporting suspected exploitation to law enforcement, adult protective services agencies, and other relevant entities. Through its efforts, the Bureau hopes to convey that these actions are permissible and important.

Other CFPB Resources for Older Americans

Two other CFPB resources can help protect older Americans against fraud. Ask CFPB is an interactive online tool that helps consumers find clear, unbiased answers to their financial questions. As soon as a consumer begins typing in a question, the database's autocomplete feature begins to provide various search suggestions. Users can also browse product categories and tags. From any search page, they can narrow their choices by specific topics, such as "fees" or "closing," or by populations, like servicemembers, students, and older Americans. Under the "older Americans" tag, a consumer easily can find answers to questions about financial products and services, powers of attorney, accepting assistance with bill-paying and banking, as well as tips to avoid financial harm.

We also have an Office of Consumer Response, which accepts consumer complaints by phone, mail, fax, and through our website. Currently, Consumer Response handles complaints about credit cards, credit reports, money transfers, mortgages, bank accounts and services, car loans, other consumer loans, and private student loans. If older consumers encounter unfair, deceptive or discriminatory activities by providers of these products and services and they wish to submit a complaint, we'll forward their complaint to the company and work to get a response from them. If we find that another government agency would be better able to assist, we will forward the complaint to them and let the consumer know.

Conclusion

Congressional leadership and support is critical to implementing a multi-faceted solution to the serious problem of elder financial exploitation. We commend the Chairman, the Ranking Member and other members of this Committee for holding this hearing to put the issue in the spotlight. We look forward to continued information sharing with members of Congress and the GAO on this important topic.

Again, thank you for the opportunity to present this testimony.

Mr. TERRY. Mr. Attorney General, appreciate your efforts to get here, and you are now recognized for 5 minutes.

STATEMENT OF HON. WILLIAM H. SORRELL

Mr. SORRELL. Thank you very much, Mr. Chairman. My thanks to the subcommittee, and particularly to Congressman Welch for the invitation to be here and speak to these issues today. I am not here speaking on behalf of the National Association of AG's nor individual attorneys general, but I would be very surprised if General Madigan or General Bruning, General Cooper, General Koster, would disagree with what I have to say as to what we are seeing in Vermont, or disagree with the requests I make for Federal assistance.

We have a very real problem in the State of Vermont right now with scams preying on seniors, and as has been discussed with the aging demographic in this country, it is just going to get worse.

Just some of the reasons why seniors are particularly preyed upon by certain scam artists, we have talked about the fact that they tend to have more resources or assets than others, but seniors tend to be more trusting than others. They want to believe that you have their best intentions at heart. They are more polite. They don't as readily hang up or close the door. And not just in rural Vermont. Seniors frequently tend to find themselves socially isolated, and a lot of seniors report that they appreciate the call from Jamaica or whatever to interact and talk about religion or the family or whatever.

And then, of course, we have to take into account that seniors, some seniors suffer from dementia or related diseases, but otherwise, normal aging processes can have an impact on seniors in terms of making reasoned decisions about their financial affairs.

My remarks go not to home repair fraud or caregivers or family members who perpetrate frauds. We see that. I want to focus a little bit on the stranger frauds, particularly those that come in from outside the country. We have talked about Jamaica a little bit, but we see a lot of the so-called grandparents scams, the grandson or granddaughter who has supposedly been in an auto accident or has been arrested. They will say, I have a cold. That is why I don't sound like—or I got punched in the mouth or I hit the steering wheel in the auto accident, so I don't sound like myself.

We had the lottery and sweepstakes cases. We had a Vermonter who took out a home equity loan on her house to send the port fees or taxes off to Australia or Canada to get the lottery winnings.

We see the romance or relationship scams coming in from out of the country, pen pals that leads to more. And just to bring it more immediately, just in the last 10 days to our consumer assistance program, we had an 83-year-old man suffering from dementia who lost $8,000 in an investment scam and a 79-year old woman who wired $29,000 to her dear friend in Ghana. All scams.

Truth is, States are struggling, we need Federal help. The Vermont State Police, let alone the Burlington Police Department or the Montpelier Police Department are not in the position to identify the scam artists from out of the country. We don't have the jurisdiction to arrest them or prosecute them. And the likelihood

that we will get the Vermont consumer's money back is virtually nil. We really need Federal help on that. So there are three main issues I would like to very quickly mention.

We need Federal assistance to support research and development of evidence-based programs that go beyond simple consumer education, the fliers, the posters in banks and whatever, of what will work on a sustainable way to help seniors avoid being scammed, put together training materials, send to the States where at the ground level we can use those. So we are looking for effective and sustaining programs, research-based, to change consumer behavior.

Second of all, and related to the first, is once we have those training materials and that research, we are looking for the support of State or local networks of individuals who work in senior meal sites, Social Security offices, banks, senior housing sites, to help prevent through interactions with seniors scams, identify it when they see it is happening, and then be able to effectively intervene to avoid further harm.

And third and finally, we ask the Congress and look forward to working with our Federal partners to take a look at those players in the marketplace that in their legal carrying out of their business unknowingly, or at least facilitate the perpetration of the frauds. And particularly we would look to those wire service industries. And just in 2002, the States had a survey where 58 percent of the money wired to Canada over the period of the survey was fraudulent. I believe the FTC had a 2007 report where of wire transfers of over $1,000 into Canada during the survey period, 79 percent were fraudulent.

So we would ask the Congress to look at some things at this industry and others and give protection from antitrust restrictions on wire companies sharing information about vulnerable consumers; maybe some extra hoops for wires of a certain amount to certain countries.

Thank you very much for the opportunity, and I look forward to answering questions.

[The prepared statement of Mr. Sorrell follows:]

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL

TEL: (802) 828-3171
FAX: (802) 828-2154

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

Testimony of Vermont Attorney General William H. Sorrell
Before the United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Commerce, Manufacturing, and Trade
May 16, 2013

Summary

First, I would like to thank the Subcommittee for the opportunity to testify today on a matter of great importance to the Vermont Attorney General's Office and my constituents—indeed to people all over the United States: the tragedy, and the injustice, of fraud perpetrated on the elderly. Citizens in the later years of their life have a right to expect that they will not be at risk from the predations of cross-border and other scammers; and yet financial loss arising from such scams, even the loss of one's life savings, occurs all too often among older people.

Second, I wish to offer the Subcommittee some thoughts, from the State perspective, on what the Federal Government can do to aid in the effort to protect seniors from fraud.[1] Specifically, I have three recommendations to offer the Subcommittee:

- Support research into, and development of, evidence-based, effective programs that go beyond consumer education, to *change consumer behavior* in such a way as to enhance the ability of senior citizens to protect themselves from fraud.
- Support the development of state-level networks, training materials, and protocols to reinforce fraud-preventive behavior by seniors, to identify frauds in real time, and to intervene to prevent consumer losses.

[1] I confine my testimony to the issue of fraud by *strangers*, as distinguished from fraud by people known to seniors, such as family members and caretakers.

- Work with the States to identify third parties, such as wire transfer companies, that, even if not directly complicit in fraud, facilitate the loss of consumer funds, and to take appropriate regulatory and other legal action to stop such facilitation.

The Gravity of the Problem

There are both moral and practical reasons for being concerned about fraud directed at the elderly. For one thing, there is evidence that the incidence of diminished financial capacity increases with age. For another, the older age cohort is growing in America. Moreover, seniors have substantial savings that scammers target, including Social Security, pensions, and veterans and other retirement benefits. These three factors together can be viewed as a "perfect storm":

> Although financial capacity is essential for all community dwelling adults, it is a topic with particularly important implications and urgency for older adults: there is a tremendous and underappreciated "financial capacity problem" posed by our rapidly growing older adult population. Older adults represent that portion of the U.S. population most vulnerable to impairment and loss of financial skills and capacity, as a result of the effects not only of Alzheimer's Disease and related dementias, but also of normal cognitive aging.
>
> At the same time, older adults hold a disproportionate amount of wealth in the United States. Older adults ages 65 and older currently comprise only 13 percent of the population and 21.4 percent of family households in the United States, but hold 34 percent of the nation's wealth. This combination of wealth, cognitive decline, and impaired financial capacity represents a tremendous and growing challenge to our society. Given that overall household wealth in the United States in 2009 was estimated at $53.1 trillion, the amount of wealth currently held in older adult households amounts to a staggering $18.1 trillion.
>
> With the continued aging of our society, and the tidal wave of Alzheimer's and related dementias building over the next few decades (estimated at 14 million persons in the United States by 2050), both this percentage and overall older adult wealth will only increase, and issues of financial capacity in elders will become ever more prevalent and urgent. These changing circumstances also provide an opportunity for rethinking how we as a society plan for the future, and how clinicians, social services providers, lawyers, and financial industry professionals can best serve the aging population.[2]

[2] "Daniel C. Marson & Charles P. Sabatino, "Financial Capacity in an Aging Society," in Generations (Journal of the American Society on Aging), vol. 36, no. 2 (Summer 2012).

Types of Fraud that Impact Seniors

Some fraudulent practices specifically target older consumers, such as cross-border "grandparent scams." Others may disproportionately target seniors, such as door-to-door paving and other home improvement scams, or the misuse of names like "Publishers Clearing House" by unrelated companies. Still others may not target seniors more than other people but still affect them seriously. Among the most serious scams we have seen in Vermont are these[3]:

- **"The grandparent scam."** An older consumer receives a telephone call from a person who sounds like her grandson; he says he is in trouble and needs money wired to him immediately. Often the story is that the grandson has been in a car accident, or has been arrested, in Canada or Mexico, and needs funds for medical care, bail, or car repairs; the caller will often ask that "his parents" not be contacted. But the call is not from the consumer's grandson; it is from a scammer. And once the grandparent sends money, the scammer will probably call back and ask for more.
- **Lottery scams.** A consumer receives a call stating that he has won a lottery or sweepstakes or qualified for a government grant but must send money, usually by wire transfer, to cover "fees," "taxes," or other charges. But in fact, the lottery/sweepstakes/grant does not exist, the consumer has not won anything, and the money is being sent to a scammer.
- **"Nigerian scams."** A consumer receives an email stating that a wealthy person has died—often in Africa—and that someone in the U.S. is needed to safeguard the deceased's money in a bank account. But there is no such wealthy person; this is just a "come on" to lure the consumer to begin sending money—for "fees," "taxes," or other charges—to the scammer.
- **"Romance scams."** An individual is contacted by a stranger, often claiming to be a young person of the opposite sex who wants to strike up a correspondence in the U.S. The stranger expresses an interest in being a "pen pal" and perhaps talks about wanting to come to America to go to school or to meet the other person. Sooner or later there is a heartfelt request for money—to replace a lost airplane ticket, to pay medical bills after a sudden accident, or for some other reason. But it's a scam, and the stranger, if claiming to be a young female, may even be a middle-aged male.

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[3] All of these types of fraud are described on the Federal Trade Commission's website. *See* http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt111.shtm; http://www.ftc.gov/opa/2010/11/onlinedating.shtm; http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt117.shtm; http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre40.shtm; and http://www.ftc.gov/bcp/edu/pubs/consumer/products/pro20.shtm.

- **Counterfeit check scams.** A consumer who is selling an item online or through the newspaper receives a check for *more* than the asking price. Even if the funds, once deposited, are treated by the bank as "available" for withdrawal, the check is still counterfeit—a fact that is not known for some days or weeks. By then, the consumer has sent a refund to the "buyer" for the excess payment, and that money is in the hands of the scammer. (The use of these counterfeit checks overlaps with other scams, including lotteries, internet auctions, and "secret shopper" scams—this last involving the purported hiring of the consumer to report on how a local business is treating its customers. In all of these cases, the consumer receives an "overpayment" and then is asked to send some amount of money back.)
- **Home improvement scams.** Men in a truck arrive at the consumer's home and say either that some repair is needed (for example, the roof is in bad condition) or that the men have just come from paving a road with left-over asphalt available at a discount. They convince the consumer to agree to have them repair or pave. The price is high, the work often shoddy, and the ultimate cost is nearly always much higher than the original estimate. Payment is demanded immediately, frequently accompanied by intimidating tactics.

In the past ten days, we added two more Vermonters to the rolls of elderly victims of fraud. One was an 83-year-old man with dementia who lost $8,000 to an investment scam. The other was a 79-year-old woman who paid a total of $29,000, in a series of wire transfers, to a "romance" scammer in Ghana.

Anti-Fraud Efforts by the Vermont Attorney General's Office

Although mine is a small office in a small state, the Vermont Attorney General's Office has been active in seeking out solutions to the problem of fraud on the elderly. Our Consumer Assistance Program in Burlington promptly processes consumer complaints and makes appropriate referrals to law enforcement attorneys in Montpelier, as well as "riding circuit" to speak at meetings of senior citizens on consumer protection issues. Last year, we chaired a broad-based working group to look into and make recommendations to the Vermont Legislature

on enhancements to Vermont's consumer laws to protect seniors.[4] Out of that initiative, a protocol is being developed by which my staff will be continuously available to speak with consumers in real time who are identified by local bank personnel as withdrawing cash potentially to send to a scammer.

My staff also participated in the initial convening of experts at Stanford University's Center for Longevity in 2009, to examine the nature of financial fraud, the conditions that make people susceptible to fraud, and potential solutions to the problem.[5] And Vermont led the first multistate investigations of "fraud-induced wire transfers," which resulted in legal settlements with Western Union and MoneyGram in 2005 and 2008, respectively.[6]

Yet more needs to be done. Cross-border fraud employing Voice over Internet Protocol and untraceable cell phones to telemarket seniors, and anonymous, high-volume emails to target them on the Internet, continue to plague seniors everywhere. Unfortunately, the States do not have the means to pursue scammers in other countries nor, even if we could do so, would we or any combination of governmental entities be able to significantly diminish, through direct pursuit of the scammers, the tide of fraud sweeping in from Nigeria and its West African neighbors,

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[4] *See* Report to the Vermont Legislature of the Working Group on Protecting Older Consumers (Jan. 2013), http://www.atg.state.vt.us/assets/files/2013%20Working%20Group%20Report%20on%20Protecting%20Older%20 Consumers.pdf.

[5] The AARP Foundation and the Stanford Center on Longevity co-sponsored a summit conference in October 2009 on financial fraud crimes, which brought together experts from the fields of social and cognitive psychology, neuropsychology, behavioral economics and communications, federal and state law enforcement, AARP and FINRA. *See* Stanford Center on Longevity, "Combatting Financial Fraud," http://longevity3.stanford.edu/financial-security-2/combatting-financial-fraud/.

[6] For information on subsequent settlements with MoneyGram by federal authorities, *see* Federal Trade Commission, "MoneyGram to Pay $18 Million to Settle FTC Charges That it Allowed its Money Transfer System To Be Used for Fraud" (Oct. 20, 2009), http://www.ftc.gov/opa/2009/10/moneygram.shtm, and U.S. Dept. of Justice, "Moneygram International Inc. Admits Anti-Money Laundering and Wire Fraud Violations, Forfeits $100 Million in Deferred Prosecution" (Nov. 9, 2012), http://www.justice.gov/opa/pr/2012/November/12-crm-1336.html.

from Jamaica and the United Kingdom, from Spain and Costa Rica, and from a host of other countries, including some parts of the United States.

We need to be creative. We need to evaluate the success of our efforts and adjust in the direction of what works. We need to go beyond consumer brochures, posters, and media outreach—unless specific variants on those strategies can be shown to be both effective in changing behavior and financially sustainable. We need to pool the ideas of our best and most experienced experts. We need to forge working partnerships between Federal and State governments. And we need to be successful; we owe no less to our parents and, as we and future generations age, to ourselves and our children.

Recommendations

Here is what I would recommend to you today.

1. *Support research into, and development of, evidence-based, effective programs that go beyond consumer education, to change consumer behavior.* One of the most common governmental responses to fraud is to undertake to educate consumers, through the familiar vehicles of brochures, posters, broadcast media, the Internet, and in-person presentations. However, it is unclear how well these methods actually work to prevent fraud. In fact, the appropriate measure of success in programs of this type should not be, as is often the case, how many consumers were exposed to the message, but rather *whether consumers' behavior has changed, and for how long.* The important questions to ask are: As the result of the particular information-based initiative, are otherwise vulnerable consumers now likely to resist the lottery pitch, or the grandparent scam, or the romance scam; and how long will this change in behavior last? The latter question is as important as the former, because the shorter the fraud-preventive effect, the more costly the initiative is, given the need to reinforce the message.

For example, there is evidence that peer-to-peer counseling (senior volunteers calling other seniors and presenting anti-fraud messages) can reduce potential victims' responsiveness to fraud by "almost 33 percent even after a 4-week delay."[7] However, that left over 30 percent of the consumers vulnerable to being defrauded again,[8] and the proven duration of the preventive effect of the messaging would still require frequent reinforcement—so frequent as to be financially impracticable. This is not to say that such approaches cannot be refined and made both more sweeping in their coverage and more long-lasting; but absent research to show that this can be done, it is reasonable to question the efficacy of consumer education, or at least of consumer education alone.

What is needed is a concerted effort to identify ways of changing consumer behavior to maximize self-protection, if such ways exist. Anecdotal evidence does suggest that this will be a challenge, for several reasons. These reasons include the logistical difficulty of reaching most seniors; for many individuals, linguistic or psychological limitations on the capacity to comprehend and then act on anti-fraud messaging; and the reality that when consumers (of any age) are "hooked" on the lure of a supposed lottery prize or the fear of not sending money to rescue a "grandson" from catastrophe, it can be extremely difficult to persuade them that the whole thing is a sham.

In any event, the Federal Government could greatly assist in the effort to develop evidence-based approaches to this problem by providing modest financial support for the work of experts in the field, including continuation of the kind of interdisciplinary exchange that took

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[7] Melodye Kleinman, National Telemarketing Victim Call Center, and Gerri Walsh, FINRA Investor Education Foundation, "National Telemarketing Call Center, Using Peer Mentors to Fight Fraud," http://fraudresearchcenter.org/wp-content/uploads/2011/11/RCPFF_Prevention_Walsh-Kleinman_11.03.11.pdf.

[8] *See id.*

place at Stanford University in 2009, as well as research at academic institutions and agencies such as the National Institute of Mental Health.

2. *Support the development of state-level networks, training materials, and protocols.* One approach beyond augmenting consumer self-protection is the development of state or local networks of people who come into professional contact with seniors every day, and who could, if trained and motivated, serve to reinforce fraud-preventive behavior by seniors, identify frauds in real time, and intervene to prevent consumer losses. Candidates for membership in such networks are those who work for local area agencies on aging, senior centers, Meals on Wheels programs, senior housing complexes, nursing homes, home health agencies, medical offices, court systems, programs for persons with disabilities, Social Security Administration offices, and banks, to name a few. Such a system could employ the Coordinated Community Response Model supported in Vermont and elsewhere by the U.S. Department of Justice Office on Violence Against Women in combating domestic and sexual violence.

These are the people who can be trained to spot fraud-in-process—in the senior citizen who mentions a recent telemarketing call from a "grandchild" seeking money, or from a supposed romantic figure on the other side of the world; in the senior who appears excited over expected lottery winnings; in the senior who plans to withdraw thousands of dollars to send to a stranger. These are the people who can be trained to counsel, or to make an appropriate referral, when one of these potential victims arrives at a local senior center, or goes to a doctor's office, or visits a bank. Comparable training should also be made available to the families of seniors who want to understand better the financial risks that their older relatives confront.

Accompanying the creation of such networks is the need for materials for use in training members of these networks (or in training trainers), and protocols to facilitate appropriate referrals and interventions. With a modest expenditure, Federal, State and private-sector experts could be underwritten to develop such materials and protocols—essentially "programs in a box" to be used, or used as a starting point, in every State.

3. Work with the States to identify third-party facilitators and take appropriate regulatory and other legal action to stop such facilitation. Perhaps the most effective approach to reducing fraud directed at the elderly involves something other than relying on seniors to protect themselves, or on professionals in the community to monitor and intervene. It involves instead the identification of third parties, often legitimate businesses, that unwittingly—or sometimes with knowledge—provide the means necessary for scammers to defraud consumers.

The focus on essential third parties has been successful in other arenas. For example, confronted with the decades-long problem of unauthorized charges on consumers' landline telephone bills (a practice known as cramming), the Vermont Legislature in 2011 enacted an outright ban on most third-party charges to phone bills and eliminated cramming almost overnight.

A similar situation exists with respect to cross-border fraud targeting the elderly. A substantial amount of this fraud involves convincing consumers to *wire* money—typically large amounts of money—to scammers located in other countries or in certain high-risk states. Wire transfers can be picked up almost immediately in any of hundreds or thousands of locations with minimal scrutiny, and thus afford scammers an ideal conduit for the flow of consumer monies.

Major wire transfer companies like Western Union and MoneyGram do have their own anti-fraud programs, some of which have been instituted following settlements with the States[9] or Federal Government, but the problem of fraud-induced wire transfers continues. Extremely high rates of actual fraud have characterized high-risk corridors: for example, a multistate survey showed that over 29 percent of transfers and 58 percent of transferred dollars from the United States to Canada through Western Union in 2002 were the result of fraud (a number that is believed to have been "artificially" low because the sampled transfers included dollar amounts down to $300); the comparable figure for transfers to Canada of $1,000 or more through MoneyGram in 2008 was 79 percent, according to the FTC.[10]

These figures—indeed, any figure over a small fraction of a percent—are unacceptably high. The banking system would not allow such levels of fraud, nor the credit card system. What is warranted, then, is a regulatory framework designed to restrict high-dollar transfers through high-risk corridors, at least in the absence of an inquiry by the wire transfer company to the consumer as to the legitimacy of the transfer, while permitting funds sent through low-risk corridors or to any destination in lower amounts to flow unimpeded. In addition, legal obstacles should be removed with respect to the sharing of information on vulnerable consumers among wire transfer companies, so that scammers do not simply migrate to another company. The States have a role in regulating wire transfers to minimize fraud, but so does the Federal Government in setting baseline protections for consumers nationally.

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[9] *See*, on the multistate side, *In re Western Union Financial Services, Inc.* (Wash. Superior Ct., Nov. 10, 2005) (Agreement), and *In re MoneyGram Payment Systems, Inc.* (Wash. Superior Ct., July 2, 2008) (Assurance of Voluntary Compliance).

[10] *See FTC v. MoneyGram International, Inc.*, No. 1:09-cv-06576 (N.D. Ill., Oct. 19, 2009) (Complaint for Injunctive and Other Equitable Relief), para. 27, http://www.ftc.gov/os/caselist/0623187/091020moneygramcmpt.pdf.

Conclusion

The States and the Federal Government are necessary partners in the noble cause of protecting the most vulnerable among us from fraud, most especially our senior citizens. The States can bring to the table their ground-level contacts and their experience working directly with their constituents; the Federal authorities can bring to bear their expertise, financial support, and nationwide regulatory authority. Together, we can, and should, work toward the development of evidence-based strategies to change consumer behavior to be more self-protective; to create networks of contacts, materials and protocols for use throughout the country; and to diminish the use of high-risk wire transfers as an easy way for scammers to take grave advantage of the elderly.

We can do these things, and we must.

Mr. TERRY. Thank you very much. Very informative from all of you.

My first comment/slash question, Ms. Brown and Ms. Hillebrand, my wife is a bank teller part-time. Kids are getting older, wanted something to do. And about 2 months ago, and this is kind of an impetus for this hearing today, older gentleman, mid 80s, walks into the bank, he is a customer there, or has his accounts there, says, I need a money order check for X thousands of dollars.

And my wife, thinking, well, this is odd that he is asking for this, and prompts a couple of questions. Oh, you know, what is this for? And he says, well, I am going to get this money. If I give this X amount of money, $5,000 or whatever it was, I am going to get all of this money.

And, of course, she knew instantly he was being scammed and told him, you are being scammed. This isn't real. You are not going to get this money. I feel very uncomfortable letting you go through with this transaction.

No. And he was very, very demanding, called the boss over, supervisor.

Supervisor instantly recognized it. Refused to give him the check that he was asking for. And they didn't know, as Ms. Hillebrand, you pointed out, what their rights were. They just know they were being a good—wanted to protect this guy from the mistake he was about to make.

So they asked, is there somebody in your family that helps you with your money? And they concluded the conversation, well, bring her in and we will work with the both of you on this check. And, of course, he didn't show back up. But those are very real out there.

And so that is just a real life story that occurred. And so when you mention, Ms. Hillebrand, about bank tellers needing to know what their rights are, most of the time, bank tellers have a lot of things they have to know about banking law, but how to work with somebody at the counter is probably not one of the things they are really taught. So you pointed that out in both your statements.

Now, I am going to focus my questions a little bit—Mr. Campbell, Mr. Harwood, first question is regarding collection of the data. You mentioned, Mr. Campbell, your IC–3, 42,000 registered complaints within that database. Mr. Harwood, I don't know how many you all receive at the FTC in a year span.

Do you guys work together? Do you share the data and coordinate your efforts, Mr. Campbell, Mr. Harwood? Mr. Campbell first.

Mr. CAMPBELL. That is right. We do share that information, and we feed much of it into the Consumer Sentinel Network as well, where it can be shared even additionally from there. And I believe Mr. Harwood can comment on that as well.

Mr. HARWOOD. Yes. In fact, Mr. Campbell's correct. IC–3 does feed almost all of its complaints, all of its complaints except for the murder and fraud-type things, I think, to—murder and those kinds of things, to the FTC, and then they are incorporated into our Consumer Sentinel System.

Last year we received about 2 million complaints from consumers around the country. And our total database is over—I am going to say it is over 8 million complaints that we make available to law

enforcement agencies throughout the United States, Federal, State and local to use in developing cases.

Mr. TERRY. All right. Now, Mr. Campbell, on the law enforcement side, and Mr. Sorrell brought this up to some extent, and you are dealing with international. How does local law enforcement, how are they able to work with State and Federal agencies when they have a person that has been scammed, when there is an actual victim?

Mr. CAMPBELL. Well, certainly with the international aspect, as you can imagine, there are difficulties there in pursuing that, but we do receive information from all kinds of sources, including local law enforcement, in regard to scams similar to the one that you posited. And what we do then is run checks on all of that information, determine if there have been others elsewhere, if it is a pattern, if it is tied to any particular criminal organizations, tied to any particular subjects that we are already focusing on, and determine if in that sense there is a pattern involved that would initiate our involvement.

The onesies, twosies, there are so many of them, it is difficult for us obviously with resources, but the good thing about the IC–3, though, is that they can compile that information, store it, continue to run analysis. And it may come up later that, based on information we get, it is tied to something else that is substantial enough that we would be able to engage, but we also do share that information with others who might be able to take action.

Mr. TERRY. Very good. General Sorrell brought up a really good point, and that is there are money entities that are enabling the fraud. Money Gram. General Sorrell mentioned that 58 percent of the checks going to Canada through this wire service is fraudulent, and even higher when the amounts get higher.

How can the FBI work to shut those down? Is there something that Congress needs to do to disable those that are enabling this type of fraud?

Mr. CAMPBELL. Well, I don't have specific information as to what we are doing with Money Gram and so forth, and I can maybe get back to you on something like that——

Mr. TERRY. All right.

Mr. CAMPBELL [continuing]. but in regard to Congress, certainly if there is legislation that could be contemplated, we would be interested in working through the Department of Justice to consider legislation that might be effective, especially in those cross-border issues, which——

Mr. TERRY. Yes.

Mr. CAMPBELL [continuing]. do create a lot of threat problems for the elderly.

Mr. TERRY. Mr. Harwood?

Mr. HARWOOD. Sure. Thank you. So with regard to Money Gram in particular, the FTC filed a law enforcement action against Money Gram precisely for facilitating lottery and prize promotion scams that involved Canadian operations. That was filed a couple of years ago. We obtained a substantial order against Money Gram, including injunctive relief and restitution for consumers.

Since then, we have instituted a regular conference in Chicago that involves Money Gram, Western Union and GreenDot, a newer

entry into the wire transfer, money transfer industry, and we meet regularly to talk with them about the kinds of complaints that we are seeing and the kinds of things they are doing to try to deal with the problem. That conference includes representatives from other Federal, State and local law enforcement agencies.

Third, we have been working with all three of those entities to develop consumer education initiatives so they can actually stop or warn consumers before they wire money offshore and try to discourage them.

And then finally, all the complaints that we get from Western Union, Money Gram and Green Dot, and we get many, many complaints from them, go into the consumer sentinel system and we make those complaints available to Federal, State and local law enforcement agencies.

Mr. TERRY. Fantastic. My time has expired, and Ms. Schakowsky, you are now recognized.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman.

In a June 2012 report to Congress, the Consumer Financial Protection Bureau noted that consumers are getting reverse mortgages at younger ages, and that 70 percent of the borrowers are opting for lump sum payments rather than an income stream or line of credit. Unsuspecting seniors who select the lump sum option are particularly vulnerable to fraud, given the appeal of quick money.

The CFPB has identified property flipping, inflated appraisals, cash-out theft, power of attorney and third-party imposters as some of the top risks to reverse mortgage borrowers.

As I mentioned in my opening statement, Ms. Hillebrand, I offered an amendment that provides the director of the CFPB with authority to issue regulations for reverse mortgage transactions, and I was wondering what the status of the rule-making process, recognizing that there are some funding issues and the delayed appointment of Mr. Cordray, but how are we doing?

Ms. HILLEBRAND. Thank you, Congresswoman Schakowsky, for that question and for your longstanding interest in protecting consumers as they consider whether or not to take reverse mortgages.

We started with a study, which I believe was mandated by Dodd-Frank, I think that was part of your amendment to DFA, quite a comprehensive study. We found that even after housing counseling, some of the basic characteristics of these loans were not well understood. Housing counselors told us that people didn't quite understand that it is a loan and, that you are essentially borrowing and using up your home equity as you go. And that was a difficult concept for people who actually were considering taking these loans.

We did say in that study, or identified some of the potential future activities. One is regulation. And we said that we expect to undertake a project to improve and integrate the Truth in Lending Act and the Real Estate Settlement Practice Act disclosures for reverse mortgages, because it is a very different kind of product than a forward mortgage, so they would work better, and that as part of that project, we would consider——

Ms. SCHAKOWSKY. Let me just say——

Ms. HILLEBRAND. Yes.

Ms. SCHAKOWSKY [continuing]. as someone who has been refinancing, some of that paperwork, I think, is virtually useless, I just

want you to know. I mean, you get this huge pile, you have got, like, an hour for the closing, and it is flipping through. And, you know, just a point there.

Ms. HILLEBRAND. I appreciate that.

Ms. SCHAKOWSKY. We don't all often feel better because a piece of paper has been added to the stack.

Ms. HILLEBRAND. Well, no. We want to actually make the disclosure work for consumers, and that is a major undertaking and something that we intend to do as—in the meantime, we do have some good consumer education material focusing on the key insight from the study, it is a loan, and then focusing on four key questions people should ask themselves.

And for all of your constituents, if they are considering a reverse mortgage, make certain that both spouses are on the loan. If they are not, you can have a situation where the widow or widower has to either cough up the full amount of the loan proceeds or move out of the family home. So that is number one: put all the borrowers on the house. And then there are some difficult questions about what your expected life—how long you think you will live, whether it is worth it. And if you are too young, it also can be quite dangerous to take the reverse mortgage, because you have a risk of outliving your money.

Ms. SCHAKOWSKY. The thing that is hard about a bunch of these different scams is that often there is a legitimate offering. A work-at-home program, I suppose, could be legitimate.

So what are the kinds of things that we can do to really help people distinguish? I mean, I think that is kind of what you are saying, Ms. Hillebrand, but are there other examples, or Mr. Sorrell, I mean, the kinds of things that help people sort through an offer, some of the key things they should be listening for that would alert them. I am just wondering if anybody wants to add to that?

Mr. SORRELL. Well, I would go back to my suggestion that where the Federal Government could be really helpful is with some research-based analysis of what can work, because our view is just straight consumer education, the fliers, the mailers, even the peer counseling, the posters at banks near the teller as to whether this check is actually going to be there, the funds are going to be there 2 weeks from now when it has finally gotten back to the sending bank, that that is not adequate. And I think AARP would suggest that just a few weeks after peer-to-peer counseling, the beneficial impact is reduced.

So we really want to see the National Institute of Mental Health and academia take a look at this to tell us at the State level what can be effective for sustainable protection going forward.

Ms. SCHAKOWSKY. I have got a couple of seconds. Mr. Harwood, it looked like you want to——

Mr. HARWOOD. Sure. I would agree with everything that General Sorrell said. That is part of the reason that we have been working with this new consumer education effort to try to talk with professionals and activities directors and others who are at facilities that are frequented by boomers and seniors to try to get a better sense of what kinds of messengers they will trust, what kinds of messages will be meaningful to them, and hopefully in that way help

them better educate consumers in a way that is going to be best received by those consumers receiving the messages.

Ms. SCHAKOWSKY. Let me just say because it is interesting that the gentleman who was actually protected at the bank went away mad. You know? Anyway, thank you.

Mr. TERRY. It is interesting. At this time the gentlelady from Tennessee is recognized for your 5 minutes.

Mrs. BLACKBURN. I thank the chairman, I want to go to Mr. Harwood and General Sorrell, and let's talk about some specifics. So let me use this Jamaican lottery scheme as an example. And I know New England has been hit particularly hard by that.

And as these events happen, whether it is that lottery scheme which is telephone driven——

Mr. SORRELL. Yes.

Mrs. BLACKBURN [continuing]. Or whether it is some of the rogue Web sites, what I want to know from you is what you are learning on the ground that you could transfer that information to Mr. Harwood? And then Mr. Harwood, what could you give us as action items where you could block some of these phone calls, block these Web sites, block the financial networks that are allowing some of the transactions? You always don't have a bank teller who is going to say, you know, I think this is a scam. Let me get some help over here.

And so let's use that as a specific and talk about the lessons learned and then the action item that transfer that information and the action item and we have got 3 minutes and 47 seconds to do that.

Mr. SORRELL. In 30 seconds I will say we don't have the answers. We are trying peer-to-peer counseling. We go to AARP functions. We go on talk shows. We continue to say if it sounds too good to be true, it probably is. But what we have found thus far is that even one-to-one contact, that after a matter of weeks, the protective impact of that gets dissipated.

Mrs. BLACKBURN. OK, let me say then when you find the action, what you are doing with that data and that information? Are you putting it in the Consumer's Sentinel Network or how you are working with Mr. Harwood? Where do you transfer your lesson learned? How you are handling that?

Mr. SORRELL. We communicate the information that we have to the Federal authorities.

Mrs. BLACKBURN. OK. Then, Mr. Harwood, what then what do you do with that and what can you advise us would be helpful to do?

Mr. HARWOOD. Thank you, Representative. There are a couple of challenges. First of all, we get information that oftentimes doesn't tell a complete picture. Lots of times what happens in these scams the consumer knows something about what happened and they know they lost some money, but they oftentimes don't know where they sent it. Sometimes it goes to multiple places. Sometimes it is wired to one country but picked up in another country. Sometimes there is an intermediary. I know that General Sorrell has seen all of these stories come up as well.

So the first things, oftentimes, is to try to take those pieces of information that we receive from attorneys general and others and

try to turn them into a meaningful picture, and that is where the Consumer Sentinel system comes in and other analysts come it. You are trying to create a where is this money being wired from, where is it being picked up at? And it is oftentimes a challenge, frankly, because these scammers don't want to be found. They are trying to hide behind international borders and behind multiple steps in the process.

Nevertheless, we have had some success in that regard. In fact, some companies have stopped agreeing to wire or process money that goes to Jamaica. I think GreenDot, which is one of the wire transfer companies, actually stopped allowing people to remove money in Jamaica because of the number of scams that are coming there. That, in part, is because of ongoing dialogue with GreenDot about the number of scams.

Mrs. BLACKBURN. What about the credit card processors? And PayPal, and some of those?

Mr. HARWOOD. I don't think they have taken the same sort of action in that regard, but I would have to confirm that before I could say for sure.

Mrs. BLACKBURN. OK.

Mr. HARWOOD. The next step is there is actually a Federal law enforcement effort that is actually located in Jamaica called Project JOLT that is a joint effort by criminal law enforcers, and I think it is the Postal Inspection Service that is leading that effort at that point, but it includes other Federal criminal agencies. They are working with local prosecutors in Jamaica to try to shut down some of the scammers in those countries. They use information such as the information from the Sentinel system to help them target the entities they are going after.

Of course, the challenge is even if you find them you have to know how to prosecute them and get them extradited to the United States. That is a very expensive process and can oftentimes be a challenge for criminal law enforcers, but that, nevertheless, is what they try to do. So the information we obtain is used also by Project JOLT to develop their efforts and go forward.

Mrs. BLACKBURN. What about the communication companies? What kind of information do you have to give them and programs like FairPoint?

Mr. HARWOOD. So this would be, for example, we are talking about telephone companies, mobile carriers, Internet?

Mrs. BLACKBURN. Yes.

Mr. HARWOOD. So there are a couple of different things we have done with them. Obviously, they are aware of the problem we are seeing here. The challenge has been a lot of these operations now use VoIP services, so they actually disguise where they are located. VoIP is an automatic system. It is very hard to track them down. So as much as the phone companies like to tackle the problem, oftentimes they can't really see where the calls are coming from. Which, again, means they can be only of limited service to us. But to the extent they know what is going on they do try to work with us.

Mrs. BLACKBURN. Thank you. Yield back.

Mr. TERRY. At this point, we recognize the son of the Godmother of Vermont politics, Mr. Welch.

Mr. WELCH. Thank you very much, Mr. Chairman.

I want to follow up on Mrs. Blackburn's questions, Mr. Attorney General. Thanks so much for being here. The real question here is at the point where the scam is initiated, or at the point where the victim is coming into the bank, it is at the moment before that actual transfer of cash, that appears to be from everyone's testimony the very critical moment.

And there are some challenges here. For instance, Mr. Terry's wife, what is she to do when the depositor comes in, has a right to access the money, but she really does know that this is going to vanish? Are there some things that we can do to provide encouragement and protection to a person like his wife who is going to do what we all think is the right thing?

Mr. SORRELL. Well, we had an example up at the Price Chopper in St. Johnsbury where a woman was in trying to wire money, a grandparents scam, and the clerk said, Mrs. Stowe, I think this is a scam. I don't want to do this. And she said it might well be a scam, I love my granddaughter, she needs help, send the money. But Price Chopper didn't send it and within a matter of hours, learned that it was a scam. So that was a intervention. Good for Price Chopper.

I don't know what legally could be done, unless you are looking at some restrictions of some extra hoops that a wire transfer company would need to go through for transfers above a certain amount to certain countries or would-be recipient locations.

Mr. WELCH. Mr. Harwood, what about that? Because again, as a practical matter, what the Attorney General told us is something we all knew. Once the money is out the door, it is gone. And that victim is not going to get it back. And then you also mentioned that a lot of victims are so embarrassed that they got taken that they won't even report. Are there things that we can do that would help the wire transfer company? That would help the banks? That would help the Price Choppers? So that when they made a very reasonable judgement that look, this is a scam, they could take appropriate action to stop it before it ended?

Mr. HARWOOD. That is a great question. There are a couple of things. First of all, obviously we have been trying to encourage the wire transfer companies to implement better procedures that would make it possible to more easily track where the money is being picked up, who is picking it up, that sort of thing. Their current procedures—let me say their historic procedures have been rather loose in terms of tracking where the money is going.

Mr. WELCH. So let's talk about that a little bit, because they obviously make money each time they make a transfer. So the victim's loss is the wire company's gain. And it shouldn't be any motive here but, there is not a strong incentive for them to make that extra step. What would be some of the practical steps they could take, and that we could practically and reasonably require them to take, to provide for the protection of the person transferring that money?

Mr. HARWOOD. Well, I think there are a couple of things. First of all—and some of them have already done this—implement a callback program where they are being asked to wire a certain amount

of money, before they actually make that wire, call back the consumer.

Mr. WELCH. That is it sort of what Mrs. Terry did.

Mr. HARWOOD. And some of them are already doing that. It would be great to see that happening with all the companies. Secondly more intervention by the actual tellers than we are seeing now. In some cases they have got signs up, not all of them have signs or warnings up, or provide the training. That would be wonderful to see. Third, it would be good if we could make sure that when they wire a particular country or particular location, the more precise we can get information on where that money is being wired, the more likely it is going to be for us to actually target the scam there.

Lots of times right now you can wire to one place, but it can actually be picked up somewhere else. For example, if you wire it to Vancouver, British Columbia, your money might even be picked up in Montreal, for example, which makes it different to deal with that issue.

And then finally, through our ongoing sort of dialogue with all the wire transfer companies, we have been pointing out to them which ones seem to have the worst problems. Somebody commented on the fact there are antitrust issues with sharing information. We are trying to bridge that by working with them and saying, you seem to have bigger problems with this country, seem to have a bigger problem with this country. And we do that by looking at the data we are getting on all of them through our consumer——

Mr. WELCH. So you from the FTC would be OK with the allowing of sharing of information when the goal of that sharing was to protect against victimization?

Mr. HARWOOD. Well, I am not an antitrust attorney, but I would certainly think that because I think there would be significant consumer benefits in that regard.

Mr. WELCH. So you wouldn't object to us doing the right thing here?

Mr. HARWOOD. No, even for competition purposes, yes.

Mr. TERRY. He might not be able to speak for the Justice Department though.

Mr. WELCH. Do I still have some time?

Mr. TERRY. Yes.

Mr. WELCH. Well, I just want to ask the FBI, you know, Mr. Sorrell, the Attorney General, is saying that the Montpelier Police Department, Burlington Police Department, they don't have all the resources. But I have noted you guys are kind of busy yourselves with a few things going on, and wire transfers are probably not things that you have a lot of agents to chase down one after another. What I think might be helpful, Mr. Chairman, is that we ask the FBI, the FTC, and maybe the National Association of Attorneys General to give us some concrete A, B, C what we can do that would help at that point of transfer so that we are stopping the transfer before it is impossible to catch up. Would that be something——

Mr. SORRELL. We would welcome that.

Mr. HARWOOD. We as well.

Mr. WELCH. Thank you. I yield back.

Mr. TERRY. Thank you, Peter. And at this point I now recognize Mr. Lance, the vice chairman of this subcommittee.

Mr. LANCE. Thank you, Mr. Chairman. To Ms. Hillebrand, you discussed the fact that financial advisors, sometimes the elderly, trust the wrong advisor. Could you explain briefly how your authority differs from that of the FTC?

Ms. HILLEBRAND. Thank you. Let me start by describing a little more detail our study, which is a congressionally-mandated study on senior designations. We found a wide variety of these designations. Some you can—there is one you can get by taking a 100-question multiple choice test with no education, all the way to ones that require graduate level education and substantial professional credentials.

But the initials are quite similar and it is very hard to tell one from the other. So we issued the report with the analysis looking at things like what is the educational requirement to get the designation? Is there any ongoing checkup to see if you are still qualified by the entity that gives the designation? Is there any oversight? A CPA license can be taken away by the State Board of Accountants; can a designation be taken away by the conferring agency? We found a very wide variety and have recommended that the agencies that do licensing think about adding a feature to their license check sites that say we can check on this too. You asked a slightly different question and I will try to answer it.

Mr. LANCE. Are most of these designations determined by State entities?

Ms. HILLEBRAND. The designations are conferred by private entities, private bodies that give the designations. But most of these folks also have a license of some kind and many of them hold a State license.

Mr. LANCE. And the State license would be CPA——

Ms. HILLEBRAND. Could be a CPA license, could be a financial planning licenses in States that license those, it could be an insurance agency license.

Mr. LANCE. Is there a broad array across the Nation as to these designations and whether or not they are overseen by State capitals?

Ms. HILLEBRAND. Yes, the licenses are overseen by the State licensing body, but generally, there is nobody overseeing the designations and that is why we raised this issue to bring it partly to the attention of those who license the individuals who have a license to look at what they are doing with the designation as well.

Mr. LANCE. Thank you. It seems to me that scam artists are brazenly open about their business and I am not sure that current penalties deter them. To the FBI, do you believe that we need more severe penalties to deter scams and fraud?

Mr. CAMPBELL. Again, we would certainly be interested in working through the Department with regard to studying potential legislation that might——

Mr. LANCE. The Department of Justice?

Mr. CAMPBELL. The Department of Justice, that is right, in regard to maybe considering stiffening those penalties. That is correct.

Mr. LANCE. And from your perspective, what is the most egregious situation where you think penalties might—stronger penalties might be appropriate?

Mr. CAMPBELL. Well, that is—that is difficult to say, because with each of these scams, they impact various victims in different ways regarding their life savings, personal issues, that type of thing. So I think more research would probably have to be done in order to sort of categorize maybe what is more egregious or has specific factors related to it that might mean that there are aggravating factors, that type of thing.

Mr. LANCE. Thank you. To whoever on the panel is expert on this area, I am not as familiar with reverse mortgages as I should be. Are there several national reverse mortgage companies? Or is this widely dispersed across the Nation? Perhaps, Ms. Hillebrand?

Ms. HILLEBRAND. Yes, thank you. There is a program federally insured and providers generally will provide the so-called HECM mortgage. That is the more common one. Consumers do have a choice to take it all out in a lump sum or take monthly payments. If you take it all out in a lump sum, you are at risk of somebody stealing it from you after you have it in your pocket. That is it a danger that is very hard to understand when somebody says to you would you like this dollar amount or so much per month?

Mr. LANCE. Are reverse mortgages regulated at the State level or are they regulated here?

Ms. HILLEBRAND. At the Federal level.

Mr. LANCE. At the Federal level. And which agency does the regulation?

Ms. HILLEBRAND. There are requirements under the Truth in Lending Act, and we have the regulatory responsibility at the CFPB. As you know, under Dodd-Frank, there are multiple entities that can enforce the Truth in Lending Act and we are among those entities.

Mr. LANCE. Thank you very much, and I yield back the 15 seconds I have left.

Mr. TERRY. Very well. Thank you. Now we recognize the gentleman from Missouri, Mr. Long.

Mr. LONG. Thank you. And thank you all for being here today. General, let me ask you, on my notes here from your testimony, earlier you said that the Federal Government could be of benefit to you by research and development, training materials, change consumer behavior. And then you said something about protection from, was it antitrust, or did I write that down wrong?

Mr. SORRELL. Yes, that was the issue Congressman Welch raised, and there are concerns that there might be some antitrust restrictions on companies that wire funds sharing information with each other about their customers who are vulnerable to being scammed. And also possibly the sharing of information as to locations to which money is being wired that there have been complaints or reports of high percentages of——

Mr. LONG. So that is something we could help you with on a Federal level?

Mr. SORRELL. Very much. Yes.

Mr. LONG. OK. I would like to get something in writing from you later. In answering the question, to you, General, you mentioned

AARP could be of benefit to us or to you or something. Could you explain that or how that would work?

Mr. SORRELL. AARP is very concerned about seniors generally and being scammed. And there was a wonderful meeting—very beneficial meeting at Stanford a couple of years ago that AARP was behind trying to bring academia and enforcers together to deal with issues about how to better protect seniors from being scammed.

Mr. LONG. Do you know what they define as a senior? How old do you have to be to join AARP or——

Mr. SORRELL. I think it is 50.

Ms. HILLEBRAND. Fifty-five, I think.

Mr. SORRELL. I have been a member for so long I have forgotten when I became eligible.

Mr. LONG. Well, you might be interested to know that some of your money is being spent to send out literature such as this from the AARP. And it says: According to our records show that you haven't registered for the valuable benefits of AARP membership, even though are you are fully eligible. Please return the above form with your payment to receive your membership kit and new card for you and a household member. Their membership is included at no additional charge.

It is pretty tempting. You are going to get a free insulated travel bag if you send this in with the appropriate dollar amount, and they even have a card in there for my daughter because the letter is addressed to her and she is 24 years old.

Mr. TERRY. I think they have lowered the age.

Mr. LONG. It says on here that you have to be 50. Is this normal? Why would they send something to a 24-year-old kid?

Mr. SORRELL. I assume that was some mistake, but I can't speak for AARP on that

Mr. LONG. I tried to contact them—my staff tried to contact them and they said that they will call me personally on the matter. I don't know why they can't share information with my staff. Anyway, I qualify, but my 24-year old daughter doesn't.

Let's see, Ms. Hillebrand, you are talking about SEC and bad advice—not the SEC, but you are talking about bad advice with financial brokers. Is that what you were—financial advisors?

Ms. HILLEBRAND. Financial advisors, yes.

Mr. LONG. How do you ascertain—there is good financial advisors out there, there are financial advisors that have a good reputation, and then there are some other financial advisors out there. So how do you ascertain whether you are getting fraudulent advice or someone is scamming or maybe they have a really, really good reputation, but they are putting you in mutual funds that they get a big payoff on every time they sell you one, and they churn your account and they decide to put you in another one?

So how do you decide if someone is getting bad financial advice or someone is being scammed?

Ms. HILLEBRAND. So you raise a difficult question for individual seniors who are investing their life savings and need to make good choices for themselves. It is a complicated market. There are a lot of licenses. There are a lot of these people who have the word "sen-

ior" in their title, and that is what we focused our report on, people who claim to have specialize expertise for seniors.

Of course, individuals need to get references. They need to ask. We know do there are some dangers signs. Any advisor or salesperson who tells you the door is closing, act now, that could be a moment to stop and say I want to think about this more carefully.

We have seen some difficulties associated with the so-called free lunch programs where people will assert that they are senior specialists, give you a free lunch, and it is actually a sales activity but it may be pushed as an educational activity. That is a danger sign.

But it is a complicated and difficult choice for people.

Mr. LONG. I would think it would be, because there are a lot of financial advisors who operate businesses in different ways, and may have had a client for years and years and years, and I don't know where you draw the line between poor financial advice and fraudulent financial advice, I would guess.

And real quick for Mr. Campbell, on mortgage scams, we had a tremendous run on real estate scams. I was a real estate broker for 30 years before I came into Congress, and our particular area, southwest Missouri, Springfield in particular, we had a lot of fraudulent real estate companies there that some people have gone to prison, others may. But as far as a mortgage scam, how does that work exactly?

Mr. CAMPBELL. Well, it is the same type of thing where we will receive information either through contacts we have made within that industry or from victims themselves. And then we look into those issues and if it turns out that there is a pattern there, again, if there is some kind of criminal organization behind it, a dollar loss of significant amounts, that type of thing, that is going to trigger then potentially our——

Mr. LONG. What is a mortgage scam? Is it the mortgage broker collecting—not the real estate broker, but the mortgage broker collecting too much commission? I know how the real estate scams work, because we had that prevalent in our community, and they would run ads on the radio and signs everywhere where you would get in for nothing and then you buy this house and they finance it, and then they would talk you into buying another house and another house at a bigger value and they would give you the profit off of that one. And pretty soon everything collapsed.

But a mortgage scam—I am past my time. Real briefly, can you just give me one example of how one would work a mortgage scam?

Mr. CAMPBELL. That is all generally the same. Those are mortgage scams. The same with the reverse mortgage scams. That type of thing. Straw buyers, and then——

Mr. LONG. But I am assuming there are legitimate reverse mortgage companies out there; correct? Good resource mortgage companies?

Mr. CAMPBELL. There are, yes, that is correct.

Mr. LONG. I don't know much about their business, but it seems they have taken a pretty good hit and today and I have not heard anyone say there are some good ones out there. Anyway, thank you for being here.

Mr. TERRY. The gentleman's time has expired. The chair recognized the gentleman from Maryland.

Mr. SARBANES. Thank you, Mr. Chairman. This is a really, really important hearing, given the demographic wave that is coming at us and how many seniors potentially are going to be exposed to these scams. And Ms. Hillebrand in, particular, I am gratified to hear the efforts that the new Bureau is undertaking in this area. In that sense, the Bureau arrives just in time given what is coming.

I have been intrigued by General Sorrell's observations about how things that we might believe would help our seniors in terms of education efforts, posters, even peer counseling and so forth, really, in some instances, aren't that effective right out of the gate or lose their effectiveness over time. It seems to me that is a huge challenge in this and I wondered if you could speak—and any others on the panel who would like to—just about kind of the difference between passive outreach, if you will, and education, versus ongoing active outreach, and how you enlist third parties in that, how you enlist those who have the occasion to interact with seniors on a more regular basis to be kind of part of a comprehensive network of resources that are helping those seniors be much more vigilant? How potentially you enlist families to be on the alert that their parents or their grandparents may be at risk for these kinds of scams? Because we can delude ourselves into thinking that we are doing enough, and in fact, that may not be happening. So I will just throw that to you.

Ms. HILLEBRAND. Thank you for that important question about how we can all be more effective in helping seniors and those who work with them to protect themselves. We agree. It is not "here is a brochure and good luck with that." We need to actually get in at the moment when people are thinking about these financial issues, being approached by a scammer, and that is very hard to do. But there are some points of light.

With the Money Smart for Older Adults program, that is designed to be given in person at senior centers and community centers by lay volunteer or a community trainer, because as General Sorrell pointed out, people want to be together and talk about issues. The Financial Services Roundtable has done some training for banks to give to their own tellers to identify those risk spots.

And we have a project now, we are looking not only at educating seniors, but we need to educate the caregiver generation. We need to educate those folks who seniors may be turning to in their communities and also in their families. And there is one other form of person in between the senior and the scam, and that is folks who provide convalescent care settings. So senior housing, assisted living, nursing home staff. And we are putting out a guide later this summer for the professionals who work in those places to spot the first signs of elder financial abuse. So if may be that it is a senior who has trouble making a homeowner's payment to the homeowners association. That may be an indication that someone is actually tapping them for money and draining their account. We are trying to build that layer in with people who are reaching seniors in other ways to be aware of and to spot and to start to cut this off before the money is lost.

Mr. SARBANES. General, does your office have, like, an information hotline or like something—or do those sorts of things exist

where you put out if you for getting a call, if you are curious, or if you are worrying about a scam, you can call this number?

Mr. SORRELL. Yes, we, in a population of about 630,000, we have a consumer assistance program. Toll free number. We get between 5- and 8,000 calls a year. Questions complaints and such. We do a lot of Web-based consumer advice. We invite seniors to sign up for consumer alerts. We go around to senior centers and make these kinds of presentations. But it feels to us that despite all of those efforts, as I mentioned earlier, just in the last 10 days, we are seeing seniors in Vermont lose thousands of dollars despite our best efforts.

Mr. SARBANES. I am about to run out of time, but do you think there can be more opportunities for public service announcements on television and other places that sort of offer seniors an opportunity to call into a hotline and so forth?

Mr. SORRELL. Well one of my suggestions for Federal assistance is funding for more academic study as to what will be effective. And what we have been trying is only moderately successful.

Mr. SARBANES. OK. Thank you.

Mr. TERRY. Thank you, Mr. Sarbanes. At this time the gentleman, Mr. Johnson, is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman. I want to thank the panel for being here today also. I represent the Appalachian Ohio district which runs all along the Ohio River. We have a very large senior population. And so the testimony and the evidence garnered from this hearing is very important to the people that I represent.

Ms. Brown, starting with you first, your testimony contains a frightening statement that the financial fraud perpetrated against elders is reaching epidemic proportions. Is this because of a growing senior population, because of the reach of the Internet, or something else?

Ms. BROWN. I think it is a combination. The first and most important factor is the significant growth in the senior population and in proportion of our population that are seniors. And when you combine that with the many different new opportunities with different things, like the Internet and ways to reach seniors. I think that the third factor that we have heard about today is that there are new sets of caregivers that may not be aware that their parents or those that they are caring for are becoming vulnerable and are in vulnerable positions yet.

Mr. JOHNSON. I have an 80-year-old mother, and I can tell you it is a full-time job for me and my siblings to keep her out of trouble. About every week she has got another good deal that someone has laid out for her. Mr. Harwood, you testified that you try to anticipate future areas of concern. How do you read the tea leaves, and what data do you use to identify emerging threats?

Mr. HARWOOD. Thank you. And that anticipation is challenging. As I indicated though, we based on past experience, we know some area where scams tend to evolve. For example, where there are new programs or new initiatives, Federal Government initiatives, scammers are opportunistic. They see confusion that surrounds those new programs and new initiatives and it is an opportunity for them to create confusion and defraud consumers and seniors. So we watch for those kinds of things emerging.

Secondly, we look at things like surveys showing the tremendous growth among seniors with regard to Internet usage. And we have been seeing a lot of that in the last years. That reflects at this point younger seniors who moving on line, but obviously there is a much greater usage of the Internet by seniors which leads us to suspect that we will see more fraud on the Internet that are targeted to seniors or at least attractive to seniors.

Mr. JOHNSON. Sure. You know, you bring up a good point. You testified that a Pew study shows that seniors over 65 are rapidly going on line. More of them are. My 80-year-old mother is one of them. I spend more time doing remote diagnostics than I do anything else. And I am an IT professional having spent 30 years in the industry.

Are there special scams that they should be aware of or take precautions to prevent? And before you answer that, you know, we have talked here in the House about cybersecurity. Given the magnitude of the threat that you folks are laying out, do we need a more proactive, almost like identifying hackers and intruders into our networks? Do we need some kind of offensive operation to identify these scams so that we can put the word out to seniors and let them know about it?

Mr. HARWOOD. Well, first of all, I am not a cybersecurity expert, so I can't tell you—I don't know whether——

Mr. JOHNSON. The answer to the second one. So that is good.

Mr. HARWOOD. Fine. Good. As to the scams, yes, I think that there are scams that are particularly likely to be attractive to seniors. We see more and more scams that involve age-related maladies, health issues, things like that, that are occurring on the Internet. Arthritis-related, diabetes-related products being marketed on the Internet and elsewhere. Some of those are particularly conditions that are more prevalent among seniors.

I think probably some of the investment scams, things like that may be attractive to seniors as well. The extent those migrate to the Internet, we may see some of those as well. The point is that various scams that used to be targeted to seniors and more marketed to them through mail or through telephone, as more seniors get on the Internet, you are going to see those scams migrate to the Internet as well.

Mr. JOHNSON. Quickly, to what extent are any of these scams originating outside of the United States? Do we have any cases of cross-border issues?

Mr. HARWOOD. Many of them, I am sure. Particularly on the Internet, it is easy to market across international borders and we see a lot of scams that have significant international connections. The FTC has filed a number of cases over the years. But of course, the international borders can be a challenge for law enforcement.

Mr. JOHNSON. I have a lot more questions and no more time, Mr. Chairman. I yield back.

Mr. TERRY. Such is life. Jan and I have one question that we are going to ask you before we gavel this hearing and that is, each one of you—Ms. Brown, we will start with you—30 seconds, minute, give us the one thing you want to leave us with. The message to us. What can we do?

Ms. BROWN. What you have heard today is a lot of wonderful ideas and a lot of good positive actions with good intentions. And what concerns us is that there seem to be scattering in so many different directions. Each agency has its own know responsibility and they are fulfilling it. That is why we believe that there really needs to be a comprehensive plan looking across the board at how we can marshal those resources in the best possible way.

Mr. TERRY. Mr. Campbell?

Mr. CAMPBELL. Yes, sir. I think increasing the partnerships as we discussed here today is going to be important, and sharing information. I also want encourage the public to visit the IC3.gov Web site to obtain information about all the scams we are talking about today. And there is another Web site they produce called lookstoogoodtobetrue.com, and it explains in very plain language all of the definitions of the scams that we have spoken about here today and information that if you suspect you are being scammed, or someone you know, there is good information there and please call the FBI or your local law enforcement as well if you believe that there is a scam occurring.

Mr. TERRY. Good counsel. Mr. Harwood?

Mr. HARWOOD. Thank you, I am actually going to steal an area that I suspect General Sorrell is going to make as well, which is more research. I actually participated in the Stanford event that he talked about, and it is clear that we can are deficient with regard to research that would help us understand why seniors are being defrauded or how they are being defrauded, what kinds of messages are working with them, what kinds of experience they have. That research would also help us better target our consumer education efforts, and in fact, also would probably help us target better our law enforcement efforts to have a better sense much of what works for those efforts.

I would strongly urge more research, more study. Both by academics and applied research looking at what messages work for seniors.

Mr. TERRY. Thank you. Ms. Hillebrand?

Ms. HILLEBRAND. Thank you, Chairman Terry, and I commend your wife on her care.

Mr. TERRY. I will pass that on.

Ms. HILLEBRAND. Please join the CFPB in encouraging the older Americans who you serve to speak up and speak out about elder fraud and elder financial abuse. The more people stand up and say this nearly happened to me and here is how is how I spotted it, and the more they say it did happen to me, and I am telling you so that it won't happen to you, the more we are going to be able to spread this word. Thank you.

Mr. TERRY. Good point. Thank you. General Sorrell?

Mr. SORRELL. Again my thanks for the opportunity to be here. I just want to repeat the States need help. There is a real Federal lull here with financial support and resources. I look forward to working with the Congress and Federal partners to do a better job to protect seniors in this country.

Mr. TERRY. Well, I want to thank all of you for your efforts here, your information, your testimony. It is going to be helpful for us deciding how to best help our senior constituents.

I do want to add that probably the main driving impetus was not only my wife's experience at the bank, but Jan's passion on this issue. So she has a long history of working that area and her election to Congress just transferred where her voice is heard.

So with that, I ask unanimous consent to have a letter from the National Consumers League included in the record. And it has been shared with the minority.

Ms. SCHAKOWSKY. Without objection.

Mr. TERRY. Without objection, so ordered then.

[The information appears at the conclusion of the hearing.]

Mr. TERRY. And again, thank you to our panel. I want to remind the members that they have 10 days to submit additional questions for the record, and then if there are any questions submitted by the members, they will be sent to you, and we respectfully request timely responses and multi-month is not considered upon timely by most of us.

So with that note, we are now adjourned.

[Whereupon, at 11:29 a.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

PREPARED STATEMENT OF HON. FRED UPTON

Defrauding anyone of their hard earned savings is despicable. While the Federal Trade Commission indicates the overall rate of fraud against our senior population is no more prevalent than fraud against the rest of the population, there are reasons to be concerned about this group in particular.

Demographics are changing in this country, and quickly. The baby boom generation is just beginning to retire and will increasingly swell the proportion of our population enjoying their golden years. In Michigan, out of a population of just under 10 million people, we have 1.3 million citizens over the age of 65, and another two million between the age of 50 and 64. This developing increase means that the number of fraud cases against the elderly will rise for many years to come, even without any change in the overall historical rate of fraud.

Adding to this dynamic is the financial reward to criminals of targeting the elderly. Most workers nearing retirement aspire to begin those years with a nest egg that will last them two or more decades. To do so they have accumulated far more assets and benefits over their working career than the younger people who are still working. And statistics indicate the wealth gap between today's retirees and their younger counterparts has widened over the past few decades. These facts would suggest that the elderly will increasingly be targeted by criminals. Just as the infamous Willie Sutton targeted banks for his robberies, more retirees with more wealth are an attractive group to criminals because "that's where the money is."

There are additional reasons to be concerned for the elderly. We are living much longer, healthier lives than ever before. But the longer we live, the greater the odds of diminishing mental acuity that can affect our decision making and make us more susceptible to scams. And as Internet broadband adoption expands, we are also seeing a growing proportion of elderly going online and opening up a potential new avenue for scam artists to target them. Though it may pose new challenges, the good news is the Internet can also be a great research tool for seniors to help prevent fraud.

It is our duty to make sure government resources are allocated accordingly to help our citizens prevent these crimes. As the saying goes, an ounce of prevention is worth a pound of cure. So education can and should be the first line of defense. From the federal government down to media to community organizations, there are plenty of resources available for consumers to stay informed about scams and learn how to protect themselves or their loved ones. The hurdle seems to be getting the message to everyone and alerting them to the dangers that exist—whether it's online or over the phone.

I am pleased to see the issue is clearly in the focus of our relevant state and federal agencies and you share our goal to prevent this from becoming a bigger problem than it is today. I look forward to learning more about the efforts to prevent these crimes and hear any recommendation we should consider further.

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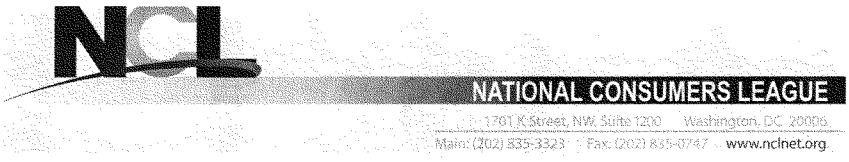


May 16, 2013

The Honorable Lee Terry
Chairman
Subcommittee on Commerce, Manufacturing and Trade
Energy and Commerce Committee
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Terry:

The National Consumers League (NCL), which is celebrating our 114th year of consumer and worker advocacy, applauds the Subcommittee on Commerce, Manufacturing and Trade of the U.S. House Committee on Energy and Commerce for holding this hearing to discuss the growing threat of fraud targeting seniors. NCL is the only consumer group that has a National Fraud Center. We operate the center largely through our Fraud.org anti-fraud campaign. NCL has long worked to educate consumers -- particularly seniors -- about the dangers of fraud, particularly online and telemarketing scams.

By 2030, it is estimated that more than 72 million Americans will be above the age of 65. The percentage of Americans over the age of 65 will increase from 12.9% to 19% of the population.[1] NCL believes that this demographic change sadly presents a golden opportunity for scam artists and a serious threat to consumers. While fraud

[1] U.S. Administration on Aging, U.S. Department of Health and Human Service. "Aging Statistics," Online: http://www.aoa.gov/Aging_Statistics/

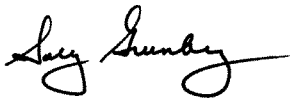
can and does affect consumers of all ages and from all walks of life, seniors are especially tempting targets for certain types of fraud.

On a daily basis, NCL's Fraud.org staff members hear heartbreaking stories of seniors being scammed out of their retirement nest eggs. While we are able to help some spot and avoid being defrauded, far too many come to us after they've already lost a great deal of money, sometimes their life savings. All too often, we must give fraud victims the bad news that their savings are gone and are unlikely to ever be recovered.

As the threat of fraud against the nation's seniors grows, so too must the resources that federal agencies spend on fighting fraud. As the Subcommittee has noted, fraud against seniors results in billions of dollars in financial losses and incalculable emotional damage. Unfortunately, the budgets of agencies charged with protecting Americans from fraud have been stretched as never before. At a time when the perpetrators of fraud have a growing target market in America's aging seniors, we should not ask our anti-fraud agencies to operate with one hand tied behind their backs.

We therefore welcome today's hearing, examining the role of the federal government in addressing the growing threat of fraud against seniors. We welcome any opportunities to work in partnership with Congress and federal agencies to keep seniors informed and help protect them from scams and fraud. We look forward to a robust dialogue about this issue and a renewed focus on protecting America's aging Baby Boomers from fraud in all its forms.

Sincerely,



Sally Greenberg
Executive Director
National Consumers League

cc: The Honorable Leonard Lance, Vice Chairman
The Honorable Jan Schakowsky, Ranking Member

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

September 25, 2013

Ms. Kay E. Brown
Director
Education, Workforce,
and Income Security Team
Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Director Brown,

Thank you for appearing before the Subcommittee on Commerce, Manufacturing, and Trade on Thursday, May 16, 2013 to testify at the hearing entitled "Fraud on the Elderly: a Growing Concern for a Growing Population."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Wednesday, October 9, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at **Kirby.Howard@mail.house.gov** and mailed to Kirby Howard, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Lee Terry
Chairman
Subcommittee on Commerce,
Manufacturing, and Trade

cc: Jan Schakowsky, Ranking Member, Subcommittee on Commerce, Manufacturing, and Trade
Attachment

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

November 4, 2013

The Honorable Jan Schakowsky
Subcommittee on Commerce, Manufacturing, and Trade
Committee on Energy and Commerce
House of Representatives

Dear Representative Schakowsky,

Enclosed please find GAO's response to your questions regarding my testimony before the House Subcommittee on Commerce, Manufacturing, and Trade on May 16, 2013, at the hearing entitled, "Fraud on the Elderly: A Growing Concern for a Growing Population."

Sincerely yours,

Kay C. Brown

Kay Brown
Director, Education, Workforce, and
Income Security Issues

Enclosure

cc: The Honorable Lee Terry, Chairman
Subcommittee on Commerce, Manufacturing, and Trade

Response to questions from Representative Schakowsky

1. **In addition to being inundated by mail, telephone, and Internet scams, seniors may also be at risk of exploitation by financial advisors, paid home care workers, and, tragically, family and friends – the last of which is particularly difficult for relevant federal, state, and local agencies to combat.**

   Elder abuse is a nationwide problem that often goes unreported. In a November 2012 report, GAO noted that as the nation's senior population grows, so does the total amount of saved wealth that is vulnerable to exploitation. Since the money older adults lose in these cases is rarely recovered, this problem has implications for elder health and seniors' ability to support themselves.

   The 2012 GAO report on elder financial abuse noted that banks are well-positioned to recognize and report cases of exploitation to social services and law enforcement officials, but do not always do so. Illinois, for example, requires all state-chartered banks to train their employees in detecting elder financial abuse, but this is not uniformly the policy across states. Do you believe Congress or relevant federal agencies should consider a federal requirement in this area? Please explain your answer.

   It is important for bank employees who regularly interact with the public to be able to recognize and report suspected cases of elder financial exploitation. Yet adult protective service and criminal justice officials told us elder financial exploitation is generally underreported by banks, in part because of privacy concerns. We recommended that the Consumer Financial Protection Bureau (CFPB) disseminate information for banks on the circumstances under which they are permitted, under federal privacy laws, to release relevant bank records to law enforcement and adult protective services agencies. In September 2013, CFPB along with six other federal agencies released interagency guidance on privacy laws and reporting financial abuse of older adults. The guidance clarifies that reporting such suspected financial abuse does not, in general, violate the privacy provisions of relevant federal law.

   We also recommended that the CFPB develop a plan to educate bank employees nationwide on how to identify and report possible elder financial exploitation. CFPB agreed with this recommendation. Such a plan could better inform a decision to make such training a federal requirement.

2. **There are a number of federal agencies whose mission is in some way to address elder financial fraud and exploitation. President Obama established the Financial Fraud Enforcement Task Force 2009. In 2010, Congress established the Elder Justice Coordinating Council (EJCC) which includes officials from 11 federal agencies and coordinates activities related to elder abuse, neglect, and exploitation across the federal government. And there are other coordinating efforts ongoing. These all have different but overlapping goals.**

In your testimony, you directly recommend that federal agencies need to better collaborate their efforts to combat elder financial abuse. Can you describe in detail the steps you think need to be taken by federal agencies? How do we get all the entities to work together, and do you think there is overlap?

Combating elder financial exploitation is a complicated process because it spans social service, criminal justice, and consumer protection systems on the federal, state, and local levels of government. In these types of circumstances, we have found that agencies can enhance and sustain their collaborative efforts by engaging in practices such as defining and articulating common outcomes, establishing mutually reinforcing or joint strategies, agreeing on roles and responsibilities, and developing mechanisms to monitor and report on results.

On the federal level, the Elder Justice Coordinating Council has made noteworthy progress in these areas since it began meeting in October 2012. It brings to the table agencies across the federal government with a role in this process. Initially, the heads of 12 federal agencies heard expert testimony and lent staff with expertise to serve on working groups that developed nine broad proposals, along with strategies and action steps needed to implement the proposals. The Council intends to continue to meet biannually to monitor progress on the action plans. This approach can be helpful in preventing unnecessary overlap of efforts and ensuring more efficient use of resources. It will be important, yet challenging, to sustain the momentum and commitment to these efforts to combat elder abuse in general, and elder financial exploitation, in particular. For more information on the Council, see: http://www.aoa.gov/AOARoot/AoA_Programs/Elder_Rights/EJCC/index.aspx.

3. Is there a central or easy way for a person to report, to the federal government, a fraud or suspected fraud? If so, please detail. If not, should there be one?

There is no one-size-fits all website that members of the public can consult to gather information on fraud or report suspected fraud. Because multiple federal agencies have a role to play in preventing or responding to elder financial exploitation, each agency's website is tailored to its unique mission. For example,

- **The National Center on Elder Abuse (NCEA)** disseminates information on elder abuse to professionals and the public, and provides technical assistance and training to states and to community-based organizations. The NCEA website http://www.ncea.aoa.gov/index.aspx contains a, "Report Elder Abuse" link that provides a central phone number in each state that the public can call to report suspected elder financial exploitation as well as other types of abuse.
- **The Consumer Financial Protection Bureau (CFPB)** works to ensure that consumers get the information they need to make the financial decisions they believe are best for themselves and their families. The CFPB has a link on its website, http://www.consumerfinance.gov/complaint , that allows the consumer to "Submit a Complaint" on a number of financial issues. Additionally, the "Money Smart for Older Adults – Prevent Financial Exploitation" curriculum at http://www.consumerfinance.gov/older-americans links to a resource guide for consumers.

- **The Federal Trade Commission (FTC)** The FTC allows consumers to file complaints on various consumer fraud issues such as identity theft, credit and debt and unwanted telemarketing at http://www.ftccomplaintassistant.gov/#&panel1-1. The complaints are entered into FTC's secure online database, which is used by many local, state, and federal law enforcement agencies. The FTC cannot resolve individual complaints, but can provide information about what next steps to take.
- **The Financial Fraud Enforcement Task Force,** a multi agency task force chaired by the Attorney General, works across the government and with state and local partners to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, recover proceeds for victims and address financial discrimination in the lending and financial markets. The website, STOPFRAUD.gov http://www.stopfraud.gov/protect.html, links to "Elder Fraud and Financial Exploitation" comprising a resource list, websites, and resources for professionals and links to the National Center on Elder Abuse noted above where the public can report abuse.

While each of these websites serves an important purpose in combating elder fraud or educating the public on these issues, we have not conducted a study that would tell us whether older adults or their families would know how to easily obtain this information or whether a single site is needed.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

September 25, 2013

Mr. Charles Harwood
Acting Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Mr. Harwood,

Thank you for appearing before the Subcommittee on Commerce, Manufacturing, and Trade on Thursday, May 16, 2013 to testify at the hearing entitled "Fraud on the Elderly: a Growing Concern for a Growing Population."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Wednesday, October 9, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at **Kirby.Howard@mail.house.gov** and mailed to Kirby Howard, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Lee Terry
Chairman
Subcommittee on Commerce,
Manufacturing, and Trade

cc: Jan Schakowsky, Ranking Member, Subcommittee on Commerce, Manufacturing, and Trade
Attachment

Additional Questions for the Record

The Honorable Jan Schakowsky

1. **Under current law, if FTC wants to seek civil penalties in an enforcement action, it must first refer the case to the Department of Justice. DOJ has 45 days to decide whether it will bring the case on FTC's behalf. FTC can only litigate the case if, at the end of 45 days, DOJ decides not to take action.**

   As FTC officials point out, this creates a difficult choice for the agency. It can file a case quickly to stop ongoing harm, but give up the possibility of civil penalties. Or it can seek civil penalties but wait weeks before it can file a case to stop conduct that is harming consumers.

   I am concerned that FTC is forced to choose between securing an injunction and seeking civil penalties. Can you give us examples of cases, perhaps targeting seniors, where the FTC had to make this choice? In these cases, what was the choice, and why did FTC have to make a choice?

Answer:

Although there may be occasions in which the FTC needs to choose between seeking preliminary relief and seeking civil penalties, fortunately, the Commission has not been faced with this issue in cases involving fraud targeting seniors. The Commission's primary goal in such cases is to stop the fraud and return money to consumers. Scammers engaged in such fraud schemes typically do not have enough money to compensate victims fully and also pay a civil penalty.

2. **Data breaches have become increasingly common recently, severely compromising the financial well-being of individuals whose personal information can be exploited to commit fraud. According to one report, there were more than 2,600 known data breaches in 2012 that exposed over 267 million records.**

   A wide array of entities have been compromised, including data brokers, retail companies, financial institutions, and government departments and agencies. An equally wide array of factors have caused these breaches, including hacking, lost or stolen laptops and tapes, dishonest insiders, and simple negligence.

   The FTC has, in the past, supported Congress passing a new law that would require persons that possess data with personal information to establish security measures to protect the data from unauthorized use.

   How would legislation like this help seniors, and can you explain why there should be special requirements on data brokers?

Answer:

Data security is of critical importance to all consumers. If companies do not protect the personal information they collect and store, that information could fall into the wrong hands, resulting in fraud, identity theft, and other harm. Accordingly, the Commission has undertaken substantial efforts to promote data security in the private sector through law enforcement, education, and policy initiatives. As you note, the Commission has testified in support of federal legislation on this issue.

Data security is particularly important to protect seniors' information. Most seniors' Medicare cards list their Social Security numbers; these cards must be presented to, and stored and transmitted by, businesses that provide health care-related services. In addition, personal information such as identification documents and financial account information may be vulnerable in settings outside the home such as hospitals, nursing homes, and other care facilities. Older adults can be attractive targets for thieves because they may have built up significant savings for retirement, or equity in their homes. Some older adults may have a physical disability, health problems, or cognitive issues that make it more difficult for them to monitor their accounts.

Federal legislation would help address these issues. First, it could require companies to reasonably safeguard this data so that it does not fall into the hands of identity thieves. Second, it could require companies to notify seniors and others in case of a security breach so that they can take steps to help themselves.

With respect to data brokers, many of their uses of data bring tangible benefits to consumers and businesses alike. At the same time, the ability of data brokers to create huge dossiers of consumer information poses challenges from a security perspective. As Chairwoman Ramirez pointed out in a recent speech, the larger the concentration of personal data, the more attractive a database is to criminals, both inside and outside the company. Further, the risk of consumer injury from a breach or other unauthorized use of the data increases as the volume and sensitivity of the data grows.[1] The Chairwoman stated that, "with big data comes big responsibility. Firms that acquire and maintain large sets of consumer data must be responsible stewards of that information."[2] While the agency has and will continue to bring actions under Section 5 of the FTC Act challenging companies' unreasonable security practices, there should be incentives, including civil penalties, to push firms to safeguard big data.[3] In addition to security safeguards, the FTC has recommended legislation that would give consumers access to information data brokers have about them, in order to increase the transparency of their often invisible practices.

3. **In today's global economy, information is paramount. Companies collect vast amounts of information about consumers through countless different methods, mechanisms, and media channels. Data is collected, aggregated, analyzed, used, and disseminated for a**

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[1] *See* Edith Ramirez, Chairwoman, Fed. Trade Comm'n, The Privacy Challenges of Big Data: A View from the Lifeguard's Chair at the Aspen Forum Technology Policy Institute (Aug. 19, 2013), http://www.ftc.gov/speeches/ramirez/130819bigdataaspen.pdf.

[2] *Id.*

[3] *See, e.g.*, Fed. Trade Comm'n, *Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers* (2012) at 12 & n.65, http://www.ftc.gov/os/2012/03/120326privacyreport.pdf.

wide range of commercial practices.

The website NextMark offers 60,000 customer lists for sale on topics that range from mundane and innocuous issues to more sensitive topics. There are consumer lists for sale that target people with addictions, mental illness, reproductive concerns, weight-loss issues, and dozens of other physical and mental health conditions. There are lists categorized by past purchase history, including so-called impulse purchases.

a. **As advances in technology make data collection and retention easier and less costly, is there a line that should not be crossed? For instance, should data brokers be prohibited from selling a list of little old ladies in Pennsylvania, over the age of 85, who gave money to veterans' charities or who entered the sweepstakes? This is just an example, but in all seriousness, where is the line? Should there be categories of information, such as health conditions, sexual preferences, or age that just should not be collected?**

   Answer:

   At a minimum, companies should not collect sensitive information, such as health information, without first obtaining consumers' affirmative express consent (opt-in consent).[4] Consumers, moreover, should be fully informed how such sensitive data will be used, including whether it will be shared with data brokers or other third parties.

   Your question also underscores that even less sensitive data about consumers could be misused to deceive. For that reason among others, the Commission has advocated legislation to give consumers the ability to access their data in the possession of data brokers and to opt out of the use of their data for marketing purposes.

b. **Do you support parameters being set in this area and if so, what are your suggestions?**

   Answer:

   The Commission agrees that consumers are often unaware of the existence of data brokers, as well as the purposes for which they use and sell consumer data. To address this issue, as noted, the Commission has advocated legislation that would give consumers the ability to access the data that data brokers have about them, and to opt out of the use of their data for marketing purposes.

   In addition, the Commission is currently engaged in a study of nine data brokers. As part of the study, we are seeking details about the sources of the consumer information they collect; how they use, maintain, and disseminate the information; and the extent to which they allow consumers to access and correct information about them or to opt out of having their information sold. The Commission intends to issue a report and make

[4] *See id.* at 47-48.

recommendations as to whether, and how, the data broker industry could improve its privacy practices.

4. **Companies charge different customers different prices. Perhaps that is not a shock when you are purchasing something of limited quantity, such as an airline tickets. As seats fill up or as you get closer to the date of flight, the price could rise. But it is also possible when two people, sitting side-by-side on two different computers, are offered different prices for the same book or pair of shoes.**

   Companies collect vast amounts of information about consumers, and sell and share that information. Just as it is easy for a seller to figure out whether you enjoy fishing and target you with fishing advertisements, the seller can find out that you are, hypothetically, 85 years old and not very savvy online.

   What protections are in place to ensure that sellers do not price discriminate based on age, and if there aren't any, should there be? What should those protections look like?

Answer:

The Equal Credit Opportunity Act prohibits companies from considering age in granting credit or deciding the terms of credit, with a few limited exceptions, unless it is to consider applicants more favorably (e.g., to offer seniors a more favorable deal because of their age). This is the only consumer protection statute the FTC enforces that expressly prohibits price discrimination based on age.

Of course, numerous commercial activities are not covered by ECOA. Nevertheless, the Commission could take action if such price discrimination based on consumer-specific data is an unfair or deceptive act or practice in violation of the FTC Act.

5. **The Pew Research Center reports that, as of April 2012, 53% of Americans age 65 and older use the Internet or email, and as of February 2012, 34% use social networking sites such as Facebook. This level of online participation by seniors means greater access to family members and vital resources, but also presents new challenges, particularly as seniors interact with software.**

   Can you tell us about how seniors might be more susceptible to deceptive offers during the installation of software – for example, when a user installs a piece of software they affirmatively sought, and is automatically opted into a third-party piece of software they never intended to download? Are there measures Congress should consider to protect the public from such deception?

Answer:

Many consumers, not just seniors, fall prey to tech scams, which might include deceptive installation of software (spyware or malware) or phony offers to "fix" supposedly infected computers. The scams are often quite convincing and many consumers have

been persuaded to rely on the ostensible expertise of a con-artist to differentiate an innocuous file from a hazardous one or to rely on such apparent expertise to get rid of unwanted or malicious software. Most recently, the Commission brought six cases against telemarketers who cold-called consumers and attempted to gain remote access to their computers. Invariably, the telemarketers purported to identify a "virus" and requested hundreds of dollars to fix the computer. Consumers who are active on their computers and home during business hours, as many older Americans are, are more likely to have heard the deceptive sales pitch.

6. **Total losses for Americans over 65 as a result of fraud were estimated at more than $2.9 billion in 2010, and the Federal Trade Commission (FTC) estimates that 1 in 5 seniors fall victim to fraud nationwide. Our country's seniors are particularly targeted by fraudulent lotteries, sweepstakes, and other prize promotion scams that take a staggering toll on their hard-earned personal finances.**

   A 2011 study by AARP found that victims of lottery fraud are more likely to be women, over the age of 70, divorced or widowed, and have less formal education, lower income, and cognitive impairments.

   a. **I understand that FTC and the AARP Foundation have partnered on a successful peer counseling program for senior victims of certain frauds, including prize promotion. Do the two parties intend to continue and expand this initiative?**

   Answer:

   This innovative partnership enables the FTC to refer to AARP for individual peer counseling older Americans who have called the FTC's Consumer Response Center to complain that they have been victims of certain frauds.[5] The one-on-one advice and guidance the peer counselors have provided to these consumers has helped to make them less susceptible to scams they may encounter in the future. We expect to continue this effective program and always are exploring ways to expand and enhance the program's efficacy.

   b. **Fraudulent transactions like these often begin with a telemarketing call. Technological changes are affecting the way scammers target and reach their victims. The FTC estimates that fewer than 10% of fraud schemes now come through the mail, but nearly 7 in 10 incidents involve the telephone or Internet. Access to technology such as a phone and the Internet is a critical part of seniors' independence. Could you explain how the Bureau of Consumer Protection is adapting to technological changes in meeting its obligation to consumers?**

   Answer:

   The FTC is committed to staying abreast of emerging and evolving technologies that

[5] FTC Testimony: Elder Fraud and Consumer Protection Issues (May 16, 2013), http://www.ftc.gov/os/testimony/113hearings/130516elderfraudhouse.pdf.

affect consumers to ensure that consumer protections keep pace.

Internet and Mobile Devices

The FTC has continued to update its investigative capabilities as the Internet and mobile technologies have transformed how consumers participate in the marketplace. First, we have equipped our Internet lab with untraceable computers that FTC staff uses to monitor the Internet for potential consumer fraud schemes and to collect evidence in support law enforcement actions. Second, the FTC has assembled a Mobile Technology Unit that conducts research, monitors the various mobile platforms, app stores, and applications, and trains FTC staff on mobile commerce issues. Through this Unit, the Commission is ensuring that it has the necessary technical expertise and tools to monitor, investigate, and prosecute deceptive and unfair practices in the mobile marketplace.

An important part of our consumer protection mission is identifying and sharing information on emerging issues, which the FTC frequently does through public workshops. For instance, this past June, we held a public forum on "Mobile Security – Potential Threats and Solutions" which focused on potential threats to US consumers and possible solutions to those threats. Unauthorized third-party charges on mobile phone bills have also plagued consumers, and in May, we held a roundtable to examine this "mobile cramming."

Looking ahead, on November 19, the FTC will host a workshop on "The Internet of Things," which will focus on devices that can communicate with consumers, transmit data back to companies, and compile data for third parties.

Telemarketing

The FTC is always working to identify ways to make the Telemarketing Sales Rule (TSR) more flexible and adaptable to changes in technology, including changes that bring new payment methods to the marketplace. For example, the FTC recently proposed new anti-fraud amendments to the TSR that would ban telemarketers from collecting payment through cash to cash money transfers (like Western Union or Money Gram), cash reload mechanisms (like GreenDot Corporation's MoneyPak; Blackhawk Network's REloadit; and InComm's Vanilla Reload Network) and from dipping directly into a consumer's bank account through remotely created checks and remotely created payment orders. In commenting on the notice of proposed rulemaking, AARP observed that, "The Telemarketing Sales Rule Proposed changes are vitally needed to help combat fraud targeted disproportionately at older people." (see http://ftc.gov/os/comments/tsrantifraudnprm/00038-86303.pdf).

7. **Work-from-home advertisements may be found in the classified sections of local newspapers, in national tabloids, on the Internet, or mailed directly to one's home. While some of these ads are legitimate, many are not. Illegitimate "work-at-home" schemes typically give vague details on work such as envelope stuffing, putting together crafts, or medical billing, then require a consumer to pay a fee or to purchase expensive**

equipment before beginning work for companies that do not exist or that do not hire workers for the job that was advertised. Seniors are often targeted as victims of these schemes because many rely on a fixed income that they are often looking to supplement, making them uniquely susceptible to work-from-home scams.

Legislation has been proposed to address fraud like the work-from-home scheme I have described that disproportionately affects seniors. Specifically, H.R.1953 would establish an advisory office within the Bureau of Consumer Protection of the FTC to address issues of elder fraud and abuse.

What is your position on H.R. 1953? Do you think an office focused on seniors would prove an asset to FTC?

Answer:

I support the goals of the bill: ensuring consumer protection law enforcement and education efforts adequately address the needs of older Americans. The FTC has made delivery of consumer protection services to seniors a priority. We meet regularly with senior advocates; participate in senior-oriented law enforcement and outreach efforts; and, through ongoing talks with activities directors and other professionals in facilities where older Americans live and visit, the FTC is obtaining guidance on improving its outreach to senior consumers, including the kinds of information they find useful, the messengers they trust, and the delivery mechanisms they are likely to rely on. The FTC also produces a wealth of information for widespread distribution to media, midlife and older groups, and community-based partners in education and outreach (like local law enforcers and libraries), and the FTC reaches out to the senior community directly by providing in-person training on consumer protection issues of particular interest to senior citizens and legal services providers. The Federal Trade Commission has numerous staff members who are knowledgeable about the types of fraud and other threats that target seniors. Given the wide range of issues confronting senior consumers and the relatively small size of the Commission, it is efficient to have this expertise dispersed throughout the Commission's Bureau of Consumer Protection.

8. **Since its passage, the Affordable Care Act has been a mainstay in the news. Unfortunately, scams often follow the news and scammers know that whenever there's discussion about possible changes in government programs or policy, the time is ripe to capitalize on consumers' misperceptions. For example, after passage of the Medicare Modernization Act in 2003, we saw a rise in scams and, almost immediately after the Supreme Court ruled on the Affordable Care Act, scam artists began posing as federal employees, using the Affordable Care Act as a hook to obtain personal and financial information needed for identity theft. Seniors are often targets of these scams because they're more likely to be home to answer the phone and they tend to have accumulated a larger amount of wealth that scammers hope to access. Days after the Affordable Care Act was upheld, the FTC published a consumer alert warning consumers of scams stemming from the passage of the Affordable Care Act and providing ways to file a complaint with the FTC.**

Can you please describe in more detail these efforts and any additional efforts taken at the FTC to address scams related to the passage of the Affordable Care Act and its upcoming changes? Are there additional actions the FTC plans to take as provisions of the Act come into effect?

Answer:

The FTC is taking its usual two-pronged approach of enforcement and education to address consumer fraud related to the Affordable Care Act (ACA). We are engaged in multiple activities to ensure that we receive the information we need to bring cases that will put a stop to deceptive or fraudulent practices against consumers, and to educate consumers about avoiding and reporting scams.

The FTC stands ready to prosecute individuals and companies engaged in fraud. Along with the Department of Justice, we are coordinating with federal and state law enforcement agencies across the country to identify emerging scams, refer fraud to the appropriate law enforcement entities, and notify the group of current investigations so as to avoid unnecessary duplication of efforts. The FTC is regularly monitoring all complaints that come into the Consumer Sentinel database for scams related to the ACA. In addition, the FTC has worked with the Centers for Medicare and Medicaid Services (CMS) to create a referral system under which consumers calling the CMS customer service center with complaints of consumer fraud are transferred directly to the FTC's complaint line and to set up a link on the healthcare.gov website to the FTC's online complaint form. We hope to establish a similar referral system and online complaint link with every state-based exchange.

On the consumer education side, we have provided materials, complementing the information released by CMS, and posted blog entries to help consumers understand the marketplace, and we have published consumer education with tips on how to avoid scams and report them to the FTC. Furthermore, on September 19, we held a half-day conference entitled "Consumer Protection and the Healthcare Marketplace." The conference, which was also available via webcast, was targeted at consumers, legal services organizations, law enforcement agencies, consumer advocates, and any others looking for information about how to help consumers avoid scammers trying to use the healthcare marketplaces as their lure. Presenters included representatives from Health and Human Services, the DC Health Benefit Exchange Authority, AARP, and the Department of Justice. A recording is currently available through the event workshop page.[6]

The FTC will continue these efforts as the ACA is implemented, with the goal of halting scams related to the ACA and educating consumers on how to protect themselves as they learn to navigate the new healthcare marketplaces.

[6] *See* http://www.ftc.gov/bcp/workshops/acaconsumerprotection/.

9. **There are a number of federal agencies whose mission is in some way to address elder financial fraud and exploitation. President Obama established the Financial Fraud Enforcement Task Force 2009. In 2010, Congress established the Elder Justice Coordinating Council (EJCC) which includes officials from 11 federal agencies and coordinates activities related to elder abuse, neglect, and exploitation across the federal government. And there are other coordinating efforts ongoing. These all have different but overlapping goals.**

   The FTC and CFPB recently collaborated with several other agencies to conduct a Senior Identity Theft Workshop to discuss and provide financial protection information for seniors. Please comment on the workshop and any benefits of your recent collaboration of efforts. Are there certain types of fraud whose prevention lends itself to collaboration more than others? If so, can you identity those types and why they are ripe for collaboration?

Answer:

The FTC's May 7th Senior Identity Theft Forum brought together partners from federal and state agencies, private industry, legal services, and other non-profits to discuss a variety of types of identity theft that affect senior consumers. The forum also explored the best consumer education and outreach techniques for reaching seniors. The forum was beneficial not only in raising awareness about these issues but also in fostering connections that enable ongoing collaboration.

Each type of identity theft fraud addressed at the forum – tax identity theft, medical identity theft, and long-term care identity theft – lends itself to, and is ripe for, collaboration.

- Tax identity theft: 43.4% of all identity theft complaints the FTC received in 2012 involved tax identity theft. To address this issue, the FTC plans to host Tax Identity Theft Awareness Week during the week of January 13, 2014, in collaboration with the IRS, AARP, and others.
- Medical identity theft: In the area of medical identity theft, as discussed in response to question #8, the FTC recently hosted a panel on the ACA, with speakers from HHS, DOJ, and local government discussing how to prevent fraud associated with the ACA. This issue is ripe for collaboration because the ACA took effect October 1st and agencies are poised to stop scam artists who try to take advantage of consumers' confusion about the new law.
- Long-term care identity theft: In the long-term care arena, FTC staff is working with HHS to provide trainings to Senior Medicare Patrol volunteers and long-term care staff both at their annual conferences and in the field. This area is ripe for collaboration because agencies recognize the need to share expertise to protect senior consumers.

In addition to the collaboration resulting from the Senior Identity Theft Forum, the FTC continues to be actively involved in the Financial Fraud Enforcement Taskforce (FFETF) and the EJCC. For example, this summer, members of the FFETF worked together to provide a joint DOJ-FTC identity theft training webinar to legal services attorneys.

Similarly, as part of the EJCC, the FTC has helped formulate the nine proposals of the working group, focusing on the two proposals that most relate to elder financial exploitation: (1) creating a public awareness campaign; and (2) combating financial exploitation. To that end, on September 24th, the FTC, along with numerous other federal agencies, issued Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults. The FTC intends to continue collaborating with other government agencies through the EJCC, FFETF, and informal collaboration in order to combat fraud affecting elderly consumers.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

September 25, 2013

Ms. Gail Hillebrand
Associate Director
Consumer Education and Engagement
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

Dear Ms. Hillebrand,

Thank you for appearing before the Subcommittee on Commerce, Manufacturing, and Trade on Thursday, May 16, 2013 to testify at the hearing entitled "Fraud on the Elderly: a Growing Concern for a Growing Population."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Wednesday, October 9, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at **Kirby.Howard@mail.house.gov** and mailed to Kirby Howard, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Lee Terry
Chairman
Subcommittee on Commerce,
Manufacturing, and Trade

cc: Jan Schakowsky, Ranking Member, Subcommittee on Commerce, Manufacturing, and Trade
Attachment

Responses to QFRs – Hearing entitled "Fraud on the Elderly: a Growing Concern for a Growing Population" - May 16, 2013

Additional Questions for the Record

The Honorable Jan Schakowsky

1. **In December 2009, when the full House was considering the legislation that would become the Dodd-Frank Wall Street Reform and Consumer Protection Act, I offered an amendment to provide your agency with the authority to issue regulations on reverse mortgage transactions. I was proud that the amendment received broad support, including from Chairman Upton, Ranking Member Waxman, and fully 277 members of the House. All of these members recognized the importance of effective federal oversight of the market for reverse mortgages, which involves a complex financial product, aimed at an elderly population, which is beset by cases of deceptive marketing and consumer fraud. At the Subcommittee hearing on May 16, 2013, you discussed with the Subcommittee a Consumer Financial Protection Bureau (CFPB) report on consumer understanding of reverse mortgages, which was released in June 2012. Specifically, regarding this report, which you called "quite a comprehensive study," you said, "[w]e found that even after housing counseling, some of the basic characteristics of these loans were not well understood." To combat this confusion, you suggested that CFPB was considering future activities including promulgating rules as permitted by my amendment.**

   a. **Yes or no, do you believe that existing federal laws and regulations ensure that prospective consumers of reverse mortgages receive adequate information regarding the financial product they are interested in purchasing?**

      We have found that the disclosures consumers receive are confusing and can be improved; that misinformation persists in the market; and that while counseling may be effective for some consumers, it is not universally effective and can be improved.

   b. **In the June 2012 report on reverse mortgages, CFPB indicated that there are several areas in which it might issue regulations in order to protect consumers from risks posed by reverse mortgages. For each**

of the following areas cited from the now year-old report, please detail the current status of efforts, indicate if any related rulemaking proceedings are forthcoming, and if so, indicate when a final rule will be completed:

i. **"[A] project to improve and integrate TILA and RESPA disclosure requirements for reverse mortgages so that consumers can know before they owe when considering a reverse mortgage;"**

We still believe it would be beneficial to integrate TILA and RESPA disclosure requirements in a single, new disclosure. However, the Bureau is still in the process of developing integrated forms for traditional mortgages. It will be useful to apply lessons learned from that project in considering potential disclosures for reverse mortgages. In addition, because the Department of Housing and Urban Development has made several changes to the Home Equity Conversion Mortgage program in recent months, it would be useful to wait to see how the market reacts to these changes before issuing a proposal in this area.

ii. **"[Consideration] of the 2010 proposal by the Board of Governors of the Federal Reserve System regarding reverse mortgages," a proposal which "would have placed limits on misleading advertising, improved disclosures, and closed regulatory gaps related to cross-selling, among other things;"**

We still intend to take up these issues in a future rulemaking. Much has changed since the Board of Governors of the Federal Reserve System's 2010 proposal, and the Bureau does not intend to finalize that proposal, but rather expects to consider issuing a new proposal building on the work the Board did. Such a rulemaking could also address how and whether certain provisions of title XIV of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act should be applied to reverse mortgages. Again, however, because implementation of the title XIV requirements to traditional mortgages is still underway, and because the Department of Housing and Urban Development has made several changes to the Home Equity Conversion Mortgage program in recent months, it would be useful to apply lessons learned from these implementations in considering potential rules governing reverse mortgages.

iii. "[Consideration] of whether other regulations are necessary and appropriate to protect consumers in the reverse mortgage market."

We still intend to consider whether other regulations are necessary and appropriate to protect consumers in the reverse mortgage market. As noted above, due to the ongoing implementation of title XIV and Department of Housing and Urban Development's recent changes to the Home Equity Conversion Mortgage program, it is worthwhile to wait before issuing a proposal in this area.

c. What improvements could be made to ensure prospective borrowers of reverse mortgages get the information they need to protect themselves from fraud?

Reverse mortgage counseling provides a critical opportunity for potential borrowers to obtain fraud prevention information. In reverse mortgage counseling sessions, counselors are trained to educate and alert prospective borrowers of fraud risks, including exploitation of the loan proceeds by family members or caregivers. If a counselor suspects that the borrower is improperly influenced by another party, the counselor may require that a neutral third party accompany the prospective borrow in counseling. These fraud detection techniques may be bolstered by the addition of a take home 'fraud checklist' or guide. This document would supplement the counseling session by providing red flag scenarios for the borrower to consider after the counseling session, when more time is afforded for reflection. A signed checklist could be incorporated into the requirements (along with the counseling certificate) for obtaining a reverse mortgage.

In June 2013, the Consumer Financial Protection Bureau and the Federal Deposit *Insurance Corporation (FDIC) released Money Smart for Older Adults (MSOA),* an instructor-led training program that provides awareness among older consumers and their caregivers on how to prevent elder financial exploitation and to encourage advance planning and informed financial decision-making. Included in the training module is a section regarding reverse mortgage fraud. See http://files.consumerfinance.gov/f/201306_cfpb_msoa-participant-guide.pdf. Since release of MSOA, the FDIC and the Bureau's Office for Older Americans have distributed approximately 17,000 copies of the program guides

and module, and are conducting trainings nationwide.

d. CFPB recently opened its consumer complaint database to the public, which includes complaints on financial products such as reverse mortgages. According to the data, 272 reverse mortgage complaints were reported out of 5,000 total mortgage complaints since the CFPB launched. How can the CFPB encourage greater participation in the database among seniors, who are often hesitant to report being the victims of fraud?

The Consumer Financial Protection Bureau encourages greater participation and awareness among seniors by expanding outreach efforts. For example, the Bureau continues to grow its stakeholder networks and distribution channels to raise awareness of Bureau resources, including the consumer complaint process. Stakeholder networks include federal, state, and local government, non-profit organizations, law enforcement; and home and congregate healthcare providers. Distribution channels include community organizations; Area Agencies on Aging, and senior centers, where some older adults (who may not use the Internet) can be reached with hardcopy materials and speaking events.

In addition, as mentioned above in answer 1.c., the Consumer Financial Protection Bureau, in partnership with the FDIC, is widely distributing the Money Smart for Older Adults consumer training program for older consumers and their caregivers, which encourages reporting of frauds and financial exploitation.

2. Under current law, if FTC wants to seek civil penalties in an enforcement action, it must first refer the case to the Department of Justice. DOJ has 45 days to decide whether it will bring the case on FTC's behalf. FTC can only litigate the case if, at the end of 45 days, DOJ decides not to take action.

As FTC officials point out, this creates a difficult choice for the agency. It can file a case quickly to stop ongoing harm, but give up the possibility of civil penalties. Or it can seek civil penalties but wait weeks before it can file a case to stop conduct that is harming consumers.

a. Is it correct that the CFPB currently has the authority to seek civil penalties on its own? To date, has that authority been helpful?

Yes, the Consumer Financial Protection Bureau has authority under 12 USC §§ 5563, 5564, and 5565 to seek civil penalties. To date, the Bureau has used this authority successfully to carry out our mandate to protect consumers through enforcement of Federal consumer financial law.

Under the FTC Act, the FTC can pursue acts that are unfair or deceptive. The CFPB can pursue acts that are unfair, deceptive, or abusive. The addition of "abusive" to the prohibition of unfair or deceptive acts or practices permits the CFPB to address harmful conduct that does not neatly fall within the categories of "unfairness" or "deception."

For example, there are many cases where a consumer who suffered an economic harm as part of a financial transaction may have received some form of disclosure.

b. Can you give some examples of abusive practices, perhaps targeting seniors, about which CFPB is concerned?

The term "abusive" is defined in title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), and the Consumer Financial Protection Bureau has applied that definition in one public action to date – a case filed on May 30, 2013 against American Debt Settlement Solutions (ADSS), a Florida debt-relief company that misled consumers across the country and charged illegal fees for its services. In that matter, the Bureau alleged that ADSS engaged in abusive acts or practices because the nature of the company's conduct met the Dodd-Frank Act's definition of "abusive." Specifically, the Bureau alleged that the company enrolled consumers in its debt-relief programs even though it knew those consumers' financial conditions made it highly unlikely that they could complete the programs. Based on budget worksheets that ADSS had the consumers fill out, ADSS knew that these consumers had inadequate incomes to make the monthly payments required by their debt-relief programs. ADSS then collected "enrollment" fees in the first three to six months of their enrollment, in advance of negotiating or settling any debts. This caused certain consumers to spend their last savings on these fees before they subsequently would have to drop out of the program because they could no longer afford the ongoing monthly

fees. Because these consumers could not afford to complete their debt-relief programs, they ended up paying substantial fees to ADSS without ever having a single debt settled. This was abusive in two ways under the Dodd-Frank Act: (1) It took unreasonable advantage of consumers' lack of understanding of how long it would take ADSS to settle their debts and therefore how much money they would spend before realizing any benefits from ADSS's debt-relief program, and (2) it took unreasonable advantage of consumers' reasonable reliance on ADSS to act in their interests by enrolling them in a debt-relief program that they could reasonably be expected to complete and by settling debts within three to six months as represented. On June 7, 2013, at the request of the parties, the court entered a consent order holding ADSS and its principal liable for this conduct.

The Bureau will take action to address other violations of the law in future enforcement actions, as appropriate, and the basis for those actions will necessarily be fact-specific.

3. **In addition to being inundated by mail, telephone, and Internet scams, seniors may also be at risk of exploitation by financial advisors, paid home care workers, and, tragically, family and friends – the last of which is particularly difficult for relevant federal, state, and local agencies to combat.**

   Elder abuse is a nationwide problem that often goes unreported. In a November 2012 report, GAO noted that as the nation's senior population grows, so does the total amount of saved wealth that is vulnerable to exploitation. Since the money older adults lose in these cases is rarely recovered, this problem has implications for elder health and seniors' ability to support themselves.

   It is my understanding that an investment or financial advisor has a duty to give you the best advice for you – that is, he or she has a fiduciary duty to do so. However, a broker sells you stocks, bonds, or mutual funds but does not have to act in your best interest. Now we are seeing the word "senior" added to these distinctions. Your testimony states that there should be standards for the acquisition of senior designations. Has the Bureau considered drafting guidelines in this area?

   The Consumer Financial Protection Bureau issued recommendations on several

issues regarding financial advisers using and acquiring senior designations in its April 18, 2013 report to Congress and to the Securities and Exchange Commission. That report is entitled, Senior Designations for Financial Advisers: Reducing Consumer Confusion and Risks, and is available at http://files.consumerfinance.gov/f/201304_CFPB_OlderAmericans_Report.pdf. The recommendations for senior designation acquisition include that policy makers require minimum standards for testing, units of education, and accreditation by organizations that confer the titles. The Bureau believes that these recommendations, if adopted, will reduce consumer confusion and help protect older consumers. The Bureau defers to the expertise of relevant federal and state regulators and policy makers for the drafting of additional guidelines.

4. **There are a number of federal agencies whose mission is in some way to address elder financial fraud and exploitation. President Obama established the Financial Fraud Enforcement Task Force 2009. In 2010, Congress established the Elder Justice Coordinating Council (EJCC) which includes officials from 11 federal agencies and coordinates activities related to elder abuse, neglect, and exploitation across the federal government. And there are other coordinating efforts ongoing. These all have different but overlapping goals.**

   The FTC and CFPB recently collaborated with several other agencies to conduct a Senior Identity Theft Workshop to discuss and provide financial protection information for seniors. Would you care to comment on the workshop and any benefits of your recent collaboration of efforts? Are there certain types of fraud whose prevention lends itself to collaboration more than others? If so, can you identity those types and why they are ripe for collaboration?

   The Consumer Financial Protection Bureau participated in a panel on identity theft in long-term care at the Federal Trade Commission's Forum on Senior Identity Theft on May 7, 2013. The Bureau's comments addressed the impact of diminished cognitive capacity on vulnerability to identity theft and other types of financial exploitation. Older Americans receiving long-term services and supports have a high prevalence of cognitive impairment due to Alzheimer's disease and other dementias. Research suggests that diminished financial capacity makes one more vulnerable to scams, fraud and other financial exploitation. The Bureau also addressed red flags

for identity theft and other types of financial exploitation that operators of long-term care facilities may observe.

Subsequent to the FTC Forum, FTC and Bureau staff met to further explore opportunities for collaboration with regard to senior identity theft. The FTC described the resource it offers. The Bureau described the upcoming educational resources that it will offer, including the Money Smart for Older Adults training program, created in partnership with the FDIC, and Managing Someone Else's Money series for family members and caregivers with legal authority to handle an older incapacitated person's money and assets. The FTC Forum also provided a means for communicating with staff of other federal agencies about identity theft and exploitation. For example, Bureau staff soon will meet with Internal Revenue Service staff to discuss tax identity theft. These collaborations are useful for information sharing, joint promotion of educational materials, and sharing of ideas on policy and practice changes to protect older Americans.

The Bureau has not analyzed the issue of whether there are certain types of fraud whose prevention lends itself to collaboration more than others. Since the Bureau's Office for Older Americans has a broad mandate to help seniors recognize warning signs of unfair, deceptive, or abusive practices and to protect themselves from those practices, the Office benefits from collaborating with all other federal agencies that play a role in preventing, detecting, and responding to elder financial exploitation.