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Elder Financial Exploitation and the Common Tactics

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Overview

- Today you will hear about financial exploitation, particularly the common scams on seniors.
- As a financial institution, you stand on the front lines of detection and prevention of financial exploitation.
- We will discuss laws surrounding the Suspicious Activity Reports, common scams to look for, and techniques your institution can employ to deter future exploitation or financial scams in Arkansas.
- Also, the Office of the Arkansas Attorney General can serve as a resource to further educate your employees and account holders.



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National Crisis

- Financial exploitation has been called the crime of the 21st century.
- Seniors represent the fastest growing age group, and they retain an extremely high concentration of wealth compared to the general population.
- From 2013 to 2017, senior financial exploitation reports quadrupled.
- The average amount lost was \$34,000 for older adults:
 - In cases where the victim knew the financial abuser, the average loss was about \$50,000 compared to \$17,000 in losses when the abuser was a stranger.



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Underreported Issue

- Seniors lose at least \$2.9 billion a year from financial abuse.
- But unreported cases are common, and that number is likely much lower than reality:

According to the National Adult Protective Services Association, only 1 out of nearly 44 cases of financial abuse are reported.
- This can change through education and reporting – beginning at the bank!



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But what is it?

- The Consumer Financial Protection Bureau (CFPB) uses a simple definition for elder financial exploitation:
 - “The illegal or improper use of an older person’s funds, property, or assets”



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Arkansas

Arkansas law defines financial exploitation as:

“(A) the wrongful or unauthorized taking, withholding, appropriation, or use of funds, assets, or property of an eligible adult; or

(B) any act or omission made by a person, including through the use of an eligible adult's power of attorney, guardianship, or conservatorship, to:

the (i) obtain control, through deception, intimidation, or undue influence, over eligible adult's funds, assets, or property that results in depriving the eligible adult of rightful ownership, use, benefit, access to, or possession of his or her money, assets, or property; or

(ii) convert funds, assets, or property of an eligible adult to deprive the eligible adult of the rightful ownership, use, benefit, access to, or possession of his or her funds, assets, or property.” – A.C.A. § 23-42-309 (3)



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It Can Happen to Anyone

- Seniors aren't the only victims of a financial crime!
- But older individuals may be particularly vulnerable as they are often...
 - Dependent upon others:
 - Declining cognitive and physical abilities lead to increased opportunities for the elderly to be taken advantage of by strangers and caregivers alike.
 - Or technologically un-savvy
 - Electronic payment methods
 - Online shopping
 - Online bill pay
 - Email



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Local Effort

- Financial exploitation is typically investigated at the local level
 - Under-reported
 - Under-prosecuted
 - Ill equipped investigators
- Coordinated effort between law enforcement, social service organizations, and financial institutions
 - Multi-disciplinary teams
- Banks are uniquely positioned to detect financial exploitation at an early stage, and quick action can prevent unnecessary strain on the victim
 - Report, report, report!



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Reporting

- The Bank Secrecy Act (BSA) requires financial institutions to assist government agencies in detecting and preventing:
 - Money laundering
 - Tax evasion
 - Other criminal activities
- If detected, the bank must file a Suspicious Activity Report no later than 30 calendar days after the initial detection of facts that formed the basis of the SAR
- The Office of the Arkansas Attorney General does not receive SARs or underlying data.



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Suspicious Activity Reports

- Used to report suspected financial crime to the government
- Aid law enforcement in opening investigations and identifying suspects
- Strictly confidential and access is generally limited to law enforcement and financial regulatory authorities
- Form the basis for identifying trends and patterns of financial crimes
- Submitted by YOU!
- Not designed for quick action to protect consumers or prevent financial exploitation.



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Mandated Reporting

- Bank employees are mandated reporters of financial exploitation!
 - Reports only go to Adult Protective Services, which can **only** act if the victim is impaired or endangered.
- The Gramm-Leach-Bliley Act (GLBA) normally prevents a bank from disclosing nonpublic personal information to an unaffiliated third party without proper notice
 - But the BSA **requires** if an employee **knows, suspects, or has reason to suspect** that a transaction is not the sort in which the customer would normally be expected to engage, the employee shall submit a Suspicious Activity Report
 - The SAR can be submitted electronically through FinCEN, the Financial Crimes Enforcement Network
 - The SAR is then used by federal law enforcement to trigger an investigation



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Arkansas Deceptive Trade Practices Act

- The Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101 et seq. gives the Arkansas Attorney General jurisdiction over deceptive trade practices and schemes harming consumers.
- There are added penalties for exploitation of seniors.
- The Office of the Attorney General conducts investigations and files ADTPA enforcement actions:
 - Money mules
 - Pyramid schemes
 - Sweepstakes scams
 - Bad actors



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Other State Statutes

- Further, Ark. Code Ann. § 23-42-309 protects seniors (aged 65 and older) and empowers broker-dealers and investment advisors to act if they suspect illicit behavior
 - Delay disbursement from an account if financial exploitation is suspected,
 - And provide access or copies of the records that are relevant to the suspected behavior to Adult Protective Services (APS) and the proper law enforcement agency.

Reporting to both APS and law enforcement prevents any unnecessary delays in an investigation

- Attorney General success stories...



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Policies and Procedures

- The Consumer Financial Protection Bureau has published a 62-page report on preventing elder financial exploitation
- Key recommendations, protocol, policies, and procedures



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Policies and Procedures cont'd

- Train management and staff to prevent, detect, and respond.
- Train personnel regularly and frequently, and tailor training to specific staff roles.
 - Training should cover warning signs that may signal financial exploitation, including behavior and transactions that are red flags, as well as steps to prevent exploitation and respond to suspicious events.
- Monitor transactions.



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Policies and Procedures cont'd

- Report all cases of suspected exploitation to relevant federal, state and local authorities:
 - Make timely reports when the suspicious behavior is detected.
 - Reporting does not, in general, violate the privacy provisions of the Gramm-Leach-Bliley Act.



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Policies and Procedures cont'd

- File Suspicious Activity Reports (SARs)
 - The Financial Crimes Enforcement Network (FinCEN) issued an Advisory in 2011 detailing the value of SARs
 - FinCEN now designates “elder financial exploitation” as a category of suspicious activity and provides a checkbox for it on the electronic SAR form
 - File SARs for elder financial exploitation when mandatory under the Bank Secrecy Act and consider filing them voluntarily in other cases



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Policies and Procedures cont'd

- Offer age-friendly services that can enhance protections against financial exploitation:
 - Provide consumers with information about planning for incapacity.
 - Coordinate efforts to educate older account holders, caregivers, and the public about common scams.
 - Entergy scams
 - Puppy Scams
 - Craig's List
 - Work from Home
 - Work with an array of agencies and service organizations to offer educational programs and distribute materials.



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Policies and Procedures cont'd

- Work with law enforcement and Adult Protective Services:
 - Develop relationships with law enforcement and APS personnel to facilitate timely response to reports – Be Persistent.
 - Assist with case investigations when necessary, through consultation, and document review.
- Call our office for assistance!



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Warning Signs

- Erratic or unusual banking transactions, or changes in banking patterns:
 - Frequent large withdrawals, including daily maximum currency withdrawals from an ATM;
 - Sudden Non-Sufficient Fund activity;
 - Uncharacteristic nonpayment for services, which may indicate a loss of funds or access to funds;
 - Debit transactions that are inconsistent for the customer;
 - Out-of-country cash withdrawals or transactions;
 - Uncharacteristic attempts to wire large sums of money;
 - Closing of CDs or accounts without regard to penalties.



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Warning Signs cont'd

- Interactions with customers or caregivers:
 - A caregiver or other individual shows excessive interest in the senior's finances or assets, does not allow the senior to speak for himself, or is reluctant to leave the senior's side during conversations;
 - The senior shows an unusual degree of fear or submissiveness toward a caregiver, or expresses a fear of eviction or nursing home placement if money is not given to a caretaker;
 - The financial institution is unable to speak directly with the senior, despite repeated attempts to contact him or her;



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Warning Signs cont'd

- Interactions with customers or caregivers:
 - A new caretaker, relative, or friend suddenly begins conducting financial transactions on behalf of the senior without proper documentation;
 - The customer moves away from existing relationships and toward new associations with other "friends" or strangers;
 - The senior individual's financial management changes suddenly, such as through a change of power of attorney to a different family member or a new individual;
 - The senior customer lacks knowledge about his or her financial status or shows a sudden reluctance to discuss financial matters.



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Common Financial Scams

- **Romance scams:**

- Criminals pose as interested romantic partners on social media or dating websites to capitalize on their elderly victims' desire to find companions.
- 2020 was a record year for Romance Scams!

- **Tech support scams:**

- Criminals pose as technology support representatives and offer to fix non-existent computer issues. The scammers gain remote access to victims' devices and sensitive information.

- **Grandparent scams:**

- Criminals pose as a relative—usually a child or grandchild—claiming to be in immediate financial need.



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Romance Scam Reports Over Time

From 2016 to 2020, reported dollar losses increased more than fourfold, and the number of reports nearly tripled.



These figures are based on reports to the FTC's Consumer Sentinel Network that were classified as romance scams. Reports provided by the Internet Crimes Complaint Center (IC3) are excluded as IC3 reports submitted prior to 2020 were unavailable at the time of publication. The number of romance scam reports by year are as follows: 11,235 (2016), 16,902 (2017), 22,264 (2018), 25,113 (2019), 32,792 (2020).

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More Common Scams

- **Government impersonation scam:**
 - Criminals pose as government employees and threaten to arrest or prosecute victims unless they agree to provide funds or other payments.
- **Sweepstakes/charity/lottery scam:**
 - Criminals claim to work for legitimate charitable organizations to gain victims' trust. Or they claim their targets have won a foreign lottery or sweepstake, which they can collect for a "fee."
- **Home repair scam:**
 - Criminals appear in person and charge homeowners in advance for home improvement services that they never provide.



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More Common Scams

- **TV/radio scam:**
 - Criminals target potential victims using illegitimate advertisements about legitimate services, such as reverse mortgages, timeshare exit, or credit repair.
- **Family/caregiver scam:**
 - Relatives or acquaintances of the senior victims take advantage of them or otherwise get their money.
- **Bill payment scams:**
 - Legitimate businesses will never ask a consumer to pay their bill with gift card numbers.



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Public Education

- There is only so much you can do – a vital step in preventing financial abuse is educating the public.
- Provide at-risk account holders and caretakers with the knowledge to spot a scam before it takes root.
- One such free educational resource is the Money Smart for Older Adults Program.



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Money Smart for Older Adults

- Hosted by the Federal Deposit Insurance Corporation (FDIC)
- Developed jointly by FinCEN and CFPB
- Raises awareness among older adults and their caregivers about financial exploitation
- The best part: its free!



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Money Smart for Older Adults

- The program’s goal is to prepare participants to:
 - Be better able to recognize and reduce the risk of elder financial exploitation
 - Guard against identity theft
 - Plan for unexpected loss of the ability to manage their finances
 - Prepare financially for disasters
 - And find helpful resources for managing their money and reporting exploitation



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CFPB Handouts

Don't let scammers pull the wool over your eyes

A charity scam is when a thief poses as a real charity or makes up the name of a charity that sounds real to get money from you—taking advantage of your generosity.

- Ask for detailed information about the charity, including address and phone number, and look it up to confirm the charity is real.
- Be wary if you get a call following up on a donation pledge that you don't remember making.

CFPB Consumer Financial Protection Bureau

An official publication of the U.S. Government
Report charity scams to the Federal Trade Commission at: ftc.gov/complaint.

Beware IRS scams

An IRS scam is when someone contacts you pretending to be from the Internal Revenue Service (IRS). They falsely say that you owe taxes and must pay them immediately or face serious penalties.

Put the letter in a column based on what's real and what's a scam.

SCAMMER	IRS

- A. Yell at or insult you.
- B. Threaten to deport, arrest, or jail you.
- C. Send you a bill through the U.S. Postal Service first to let you know you owe taxes.
- D. Ask for tax payment by email, text message, or through social media.
- E. Offer you an opportunity to question or appeal the amount of taxes you owe.
- F. Request tax payment by gift cards, prepaid debit cards, or wire transfer.
- G. Instruct you to make payments to the United States Treasury.

Answers on back!

CFPB Consumer Financial Protection Bureau

An official publication of the U.S. Government



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You're Not Alone!

- Combining knowledge of the common scams, erratic behavior, and a bank personnel's relationship with the customer are key for stopping financial exploitation.
- We aren't asking you to re-invent the wheel!
 - There are numerous resources available online to help fit the needs of your institution.
 - The Office of the Arkansas Attorney General is available to help.



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Questions?

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File a consumer complaint: <https://arkansasag.gov/forms/file-a-consumer-complaint/>



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