

ONE HUNDRED FOURTEENTH 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

**MEMORANDUM**

**October 21, 2015**

**To: Subcommittee on Commerce, Manufacturing, and Trade Democratic Members and Staff**

**Fr: Committee on Energy and Commerce Democratic Staff**

**Re: Hearing on “Fighting Fraud Against the Elderly, an Update”**

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

**I. BACKGROUND**

Consumers in the United States face a vast and rapidly-changing array of fraudulent activities, as well as a variety of other unfair, deceptive, or abusive business practices. In 2014, the Federal Trade Commission (FTC) received over 2.5 million consumer complaints through their Consumer Sentinel Network database regarding identity theft, debt collection, impostor scams, and other types of fraud. These levels represent a 16 percent increase from 2013.<sup>1</sup> The FTC also reported that over \$1.7 billion was paid to scammers as a result of fraudulent schemes, with the average loss amounting to approximately \$2,000.<sup>2</sup> However, these numbers likely understate the true extent of fraud against American consumers. In its most recent survey of consumer fraud in the U.S., the FTC estimated that 25.6 million people – 10.8 percent of U.S.

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<sup>1</sup> Federal Trade Commission, *Consumer Sentinel Network Data Book for January – December 2014* (Feb. 2015) (online at [www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2014/sentinel-cy2014-1.pdf](http://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2014/sentinel-cy2014-1.pdf)).

<sup>2</sup> *Id.*

adults – were victims of fraud in 2011.<sup>3</sup> That survey also found that in almost one-third of instances, victims learned about fraudulent offers online, with print media and telemarketing the next most common sources of information.<sup>4</sup> Notably, victims of fraud are often hesitant to report crimes to law enforcement due to embarrassment, disbelief, or fear about how family and friends will react, among many other reasons.<sup>5</sup>

## II. FRAUD AGAINST OLDER AMERICANS

Consumer fraud affects victims of all ages, but older Americans represent a rapidly-growing share of the total population. Americans aged 65 and older are estimated to increase from 44.7 million, or 14.1 percent of the population in 2013, to approximately 82.3 million, or 21.7 percent of the projected population by 2040.<sup>6</sup> Older Americans typically possess more wealth than those who are younger, but they also suffer a higher incidence of Alzheimer's disease and dementias that can impair their ability to manage financial resources.<sup>7</sup> Additionally, the Federal Bureau of Investigation (FBI) states that seniors possess certain characteristics that make them attractive targets for fraud, including a tendency to be polite and trusting, inability or reluctance to report fraud or serve as criminal witnesses, and susceptibility to anti-aging products.<sup>8</sup>

Studies of elder financial abuse have estimated that older Americans lose as much as \$36.48 billion each year to financial exploitation, criminal fraud, and caregiver abuse.<sup>9</sup> That number encompasses certain practices that specifically target seniors or otherwise affect this

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<sup>3</sup> Federal Trade Commission, *Consumer Fraud in the United States, 2011* (Apr. 2013) (online at [www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-2011-third-ftc-survey/130419fraudsurvey\\_0.pdf](http://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-2011-third-ftc-survey/130419fraudsurvey_0.pdf)).

<sup>4</sup> *Id.*

<sup>5</sup> U.S. Department of Justice, *Financial Fraud Crime Victims* (Feb. 10, 2015) (online at [www.justice.gov/usao-wdwa/victim-witness/victim-info/financial-fraud](http://www.justice.gov/usao-wdwa/victim-witness/victim-info/financial-fraud)).

<sup>6</sup> Administration on Aging, *A Profile of Older Americans: 2014* (2014) (online at [www.aoa.gov/Aging\\_Statistics/Profile/2014/docs/2014-Profile.pdf](http://www.aoa.gov/Aging_Statistics/Profile/2014/docs/2014-Profile.pdf)).

<sup>7</sup> U.S. Government Accountability Office, *Elder Justice: National Strategy Needed to Effectively Combat Elder Financial Exploitation* (Nov. 2012) (GAO-13-110) (online at [www.gao.gov/assets/660/650074.pdf](http://www.gao.gov/assets/660/650074.pdf)).

<sup>8</sup> Federal Bureau of Investigation, *Fraud Target: Senior Citizens* (online at [www.fbi.gov/scams-safety/fraud/seniors/seniors](http://www.fbi.gov/scams-safety/fraud/seniors/seniors)) (accessed Oct. 13, 2015).

<sup>9</sup> True Link, *The True Link Report on Elder Financial Abuse 2015* (Jan. 2015) (online at [truelink-wordpress-assets.s3.amazonaws.com/wp-content/uploads/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf](http://truelink-wordpress-assets.s3.amazonaws.com/wp-content/uploads/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf)).

subset of the population disproportionately, including fraudulent telemarketing activities and fraud involving prize promotions, health-related products and services, and reverse mortgages.<sup>10</sup>

Older Americans also face the danger of financial exploitation or abuse by family, friends, or other trusted people such as attorneys or financial advisors. Family members are the most common perpetrators of elder financial exploitation, including through the intentional misuse of powers of attorney, unauthorized credit card purchases, and embezzlement through mortgage refinancing.<sup>11</sup> These losses are rarely recovered, and as a result, the burden of caring for exploited older Americans may fall on relatives and on state and federal support programs.<sup>12</sup>

### III. ADDRESSING FRAUD AGAINST OLDER AMERICANS

While state and local social services, criminal justice systems, and consumer protection agencies take primary responsibility for combating fraud against older Americans, federal agencies also play a significant role.<sup>13</sup> For example, the FTC addresses unfair or deceptive acts or practices through data collection, consumer education, and legal action. The Commission publishes large amounts of information to inform and protect consumers and has developed the Consumer Sentinel database, which compiles information on financial fraud and exploitation from consumers of all ages to facilitate the investigation and prosecution of cases at both the state and federal levels.<sup>14</sup> It also investigates and prosecutes large-scale cases itself when those cases involve deceptive practices or fraud.

The Office for the Financial Protection of Older Americans at the Consumer Financial Protection Bureau (CFPB) facilitates the financial literacy of seniors by addressing unfair, deceptive, and abusive financial practices and financial choices.<sup>15</sup> In 2013, the CFPB in partnership with the Federal Deposit Insurance Corporation produced a guide for consumers and financial caregivers on how to prevent financial exploitation.<sup>16</sup> The agency also has produced a report series titled *Managing Someone Else's Money*, with specific guidance for powers of attorney, court-appointed guardians, trustees, and government fiduciaries.

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<sup>10</sup> See note 6.

<sup>11</sup> MetLife Mature Market Institute et al., *Broken Trust: Elders, Family, and Finances – A Study on Elder Financial Abuse Prevention* (Mar. 2009) (online at [www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf](http://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf)).

<sup>12</sup> See note 7.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> 12 U.S.C. 5493(g)(1).

<sup>16</sup> Consumer Financial Protection Bureau, *Money Smart for Older Adults – Prevent Financial Exploitation* (June 2013) (online at [files.consumerfinance.gov/f/201306\\_cfpb\\_msoa-participant-guide.pdf](http://files.consumerfinance.gov/f/201306_cfpb_msoa-participant-guide.pdf)).

The Administration on Aging (AOA) within the Department of Health and Human Services has the responsibility to address challenges and opportunities for older adults, including those challenges relating to all forms of elder abuse. This agency chairs the Elder Justice Coordinating Council, established by Congress in 2010. The Council includes officials from 11 federal agencies and coordinates activities related to elder abuse, neglect, and exploitation across the federal government.<sup>17</sup> In its 2014 Report to Congress, the Council offered eight recommendations on how to increase federal involvement in elder abuse including a concerted effort to combat elder financial exploitation through federal enforcement activities, policy initiatives, coordination, oversight and education, and collaboration with industry to enhance fraud detection and provide resources for victims.<sup>18</sup>

When a criminal act may have taken place, the FBI works with U.S. Attorneys' offices to investigate potential elder financial exploitation cases and determine which cases require prosecution. Various other federal agencies assist in the financial protection of older Americans, ranging from the deterrence of financial crimes by the Securities and Exchange Commission and the Department of the Treasury's Financial Crimes Enforcement Network to the investigation of mail fraud by the U.S. Postal Inspection Service. In 2009, in an effort to foster collaboration and strengthen collective efforts, President Obama established the Financial Fraud Enforcement Task Force.<sup>19</sup> This group of federal agencies, U.S. Attorneys' offices, and state and local partners is the broadest coalition ever assembled to investigate and prosecute fraud.<sup>20</sup>

#### **IV. WITNESSES**

The following witnesses have been invited to testify:

##### **Panel I**

##### **Daniel Kaufman**

Deputy Director, Bureau of Consumer Protection  
Federal Trade Commission

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<sup>17</sup> Pub. L. 111-148 (2010); Administration on Aging, *Elder Justice Coordinating Council* (online at [www.aoa.gov/AoA\\_programs/Elder\\_Rights/EJCC/index.aspx](http://www.aoa.gov/AoA_programs/Elder_Rights/EJCC/index.aspx)) (accessed Oct. 19, 2015).

<sup>18</sup> Department of Health and Human Services, *Elder Justice Coordinating Council 2012-2014 Report to Congress* (June 22, 2015) (online at [www.aoa.gov/AoA\\_programs/Elder\\_Rights/EJCC/docs/EJCC-2012-2014-report-to-congress.pdf](http://www.aoa.gov/AoA_programs/Elder_Rights/EJCC/docs/EJCC-2012-2014-report-to-congress.pdf)).

<sup>19</sup> Exec. Order No. 13519, 74 Fed. Reg. 60123 (Nov. 19, 2009).

<sup>20</sup> Financial Fraud Enforcement Task Force, *About the Task Force* (online at [www.stopfraud.gov/about.html](http://www.stopfraud.gov/about.html)) (accessed Oct. 16, 2015).

**Stacy Canan**

Deputy Director, Office of Financial Protection for Older Americans  
Consumer Financial Protection Bureau

**Robert F. Harris**

Cook County Public Guardian

**Panel II**

**Charles Wallace**

Associate Professor and Undergraduate Program Director, Computer Science  
Michigan Technological University

**Tobie Stanger**

Senior Editor  
Consumer Reports