

August 20, 2012

Submitted via Regulations.gov

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street N.W.,
Washington, DC 20552

Re: Request for Information Regarding Senior Financial Exploitation
Docket CFPB-2012-0018

Dear Ms. Jackson:

The American Bankers Association¹ appreciates the opportunity to submit this comment in response to the Bureau of Consumer Financial Protection's (Bureau) request for information regarding senior financial exploitation.

Our comments in this letter are in response to question 7.b., "Financial Exploitation of Older Americans," which asks what types of fraudulent, unfair, abusive or deceptive practices target Americans age 62 and over through affinity fraud.

Banks are dedicated to protecting all customers, but also are keenly aware and acknowledge the importance of protecting the most vulnerable, including seniors. Our industry takes a number of measures to detect and respond to potential exploitation of older Americans, and ABA and its members continue to work towards ensuring the safety, security and privacy of our customers' assets.

Seniors are vulnerable to a myriad of frauds committed by both strangers and trusted caregivers. While fraudsters do not discriminate against age when perpetrating their crime, seniors are typically targeted by strangers for the following:

- **Fake accident or grandparent scams**, in which perpetrator convinces an elder that a family member has been seriously injured or is in jail and needs money for medical treatment or bail.
- **Lottery/prize scams**, in which the perpetrator informs the victim that he/she has won a prize or lottery but, in order to claim the winnings they must pay an advance fee to cover taxes, shipping and handling, etc.

¹ ABA represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than \$165 million in assets.

- **Unsolicited work**, in which the fraudster arrives unexpectedly at an elder’s residence and offers to perform work for a reasonable fee; however, after starting the work, the fraudster insists that the elder pay more than originally agreed before the work will be completed.
- **Reverse mortgage scams by unscrupulous estate planners.** While reverse mortgages are legitimate and allow eligible seniors to take advantage of the equity in their home, unscrupulous estate planners may charge the senior fees for information about reverse mortgages that is readily available from the U.S. Department of Housing and Development (HUD). The senior may also be convinced that his or her home needs unnecessary renovations or repairs in order to qualify and is directed towards a contractor with a relationship to the consultant.

The following are examples of exploitation by a person known to and often trusted by the victim, such as a family member, acquaintance, caregiver, person acting with power of attorney, or court appointed fiduciary:

- **Obtaining money or property by undue influence, misrepresentation, or fraud.** The perpetrator coerces the elder into signing over investments, real estate or other assets through the use of manipulation, intimidation or threats.
- **Improper or fraudulent use of the power of attorney or fiduciary authority.** The perpetrator improperly or fraudulently uses the power of attorney or fiduciary authority to alter an elder’s will, to borrow money using an elder’s name, or to dispose of an elder’s assets or income.
- **Misappropriation of income or assets.** The perpetrator obtains access to an elder’s social security checks, pension payments, checking or savings account, credit card, or ATM card, or withholds portions of checks cashed for an elder.
- **Charging excessive rent or fees for services.** The perpetrator charges an elder an excessive rent or unreasonable fees for basic care services such as transportation, food, or medicine.
- **Caregiver scams.** The perpetrator moves in to another person’s home by promising services or companionship and then pressures the person to give presents or favors or refuse to return money or property to the rightful owner after holding it in trust for that person.

Banks take a number of measures to protect customers’ assets, regardless of the age of the customer, including:

- **Account Monitoring.** Some banks have sophisticated systems to help alert them to anomalies and potential fraud activity. At other banks, employees concerned about the possibility of fraud on a senior’s account can do a focused or manual review of the senior’s transactional history to determine their “typical” transactional history, identify what is “out-of-pattern” activity for that customer, and look for suspect transactions.
- **Employee and Customer Education.** Because many senior customers prefer to bank in person, front line employees have an opportunity to build trust with them, as well as notice changes over time in the customer’s appearance and/or demeanor. There are many

educational resources that bankers have used over the years to improve the ability of their customer facing staff to identify the red flags of potential elder financial abuse. Because of the state reporting regimes, many state bankers associations have been active participants in developing training for their community bank members. ABA's online elder abuse course was introduced in March 2012 and is designed to: educate their frontline staff how to identify financial abuse; describe why seniors are vulnerable to financial abuse; examine the laws pertaining to elder financial abuse; and identify the role banks play in recognizing the signs of elder financial abuse. Since the ABA's Elder Financial Abuse online training course was introduced, more than 5,000 bankers have taken the course and nearly 10,000 are in the process of taking it.

Banks, in addition to filing Suspicious Activity Reports (SARs), are required by many states to report suspected and/or confirmed instances of financial exploitation of elders and vulnerable adults. ABA has created a resource identifying the states that currently require mandatory reporting to assist banks in understanding the statutes of each state they operate in. Banks are also encouraged to understand the protections for voluntary reporting under Safe Harbor and Gramm-Leach-Bliley Act and the privacy exceptions that allow banks to report financial abuse.

In addition to offering the online training course, ABA has provided resources that members could use to educate their customers about fraud, including statement stuffers, brochures, and press releases.

ABA also supports and encourages banks to participate in "World Elder Abuse Awareness Day" sponsored by the Network for the Prevention of Elder Abuse and the World Health Organization at the United Nations. Banks can participate though:

- Developing an educational program or press conference;
- Volunteering to call or visit an isolated senior; or
- Submitting an editorial or press release to a local newspaper to create awareness of elder abuse, neglect, and exploitation.

In advance of World Elder Abuse Awareness Day, ABA CEO and President Frank Keating participated in a radio tour in which he addressed an audience of more than 7 million people and spoke about the warning signs of elderly abuse and provided tips consumers could take to avoid becoming a victim.

Conclusion

Thank you for the opportunity to share our views on this important issue.

While the request for information includes questions that we have not addressed in the limited time frame provided, we have staff in our advocacy group, our education foundation and our professional development division who can contribute to ABA interests in working with the Bureau going forward on the range of issues that are relevant to this important field.

Please contact Heather Wyson at 202-663-7513 or hwyson@aba.com if you have any questions or would like to discuss any of the issues addressed in this letter.

Respectfully submitted,

A handwritten signature in black ink that reads "Heather K. Wyson". The signature is written in a cursive, flowing style.

Heather K. Wyson
Senior Director
Risk Management Policy
American Bankers Association