Elder Financial Exploitation & The Bank's Role in Stopping It

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Elder financial exploitation or elder care fraud involves the illegal or improper use of an older person's funds, assets, or property. According to the Office of Financial Protection for Older Americans, elder care fraud is the most common form of elder abuse. Although only a small fraction of incidents are reported, $1.7 billion in suspicious activity (actual losses and attempts to steal) were reported by financial institutions through Suspicious Activity Report (SAR) filings in 2017. Between 2013 and 2017 financial institutions reported more than 180,000 incidents of suspicious activity perpetrated by scammers, family members, and caregivers totaling more than $6 billion.

A closer look at the suspicious activity shows that the average loss per incident is about $34,000, with 7% of SARs reporting losses over $100,000. Losses were generally greater when the victim knew the suspect. More than half of the SARs involved money transfers. Fewer than 1/3 of the SARs indicated that the financial institution reported the activity to adult protective services, local or state law enforcement, or other authorities.

Bloomberg News reported that almost 60% of cases involve a family member leaving victims reluctant to seek justice. No matter who the perpetrator is, victims rarely get their money back. These cases result in large economic losses and increased reliance on governmental programs. In 2016 the CDC stated elder exploitation was a public health problem and that elder abuse victims, including those that have been financially exploited, die at a rate 3 times faster than those who have not been abused. Although it often appears a victim has given consent, this consent may be based on deception, manipulation, or a threat of force. Dr. Mark Lachs of Weill Cornell Medical College coined the phrase "age associated financial vulnerability" and noted that financial judgment can falter before normal cognition does.

Elder financial exploitation may involve a variety of different scenarios. Romance scams frequently involve a victim sending money overseas to an individual with whom they have developed a romantic "relationship" online. Victims may be exploited by a family member who uses the victim's funds for purchases not previously noted in the customer's transaction history. Caregivers may make ATM withdrawals or cash large checks drawn on the victim's account. An elderly person may also be victim of a "person in need" scam where the victim sends funds to someone under the misperception that they are helping a friend or family member in need of financial assistance for health care or bail money. Perpetrators may also charge excessive amounts of money for routine services, impersonate a government official in a Medicare scheme, or run a lottery scam telling elders that they have won money but need to send funds for fees and taxes before collecting the grand prize.

The Elder Justice Act was enacted in 2010 but remained unfunded until 2015. A Congressional Record Service report in 2017 stated "as a result of limited federal funding, the federal government has not substantially developed and expanded its role in addressing the prevention, detection, and treatment of elder abuse." The Elder Justice Prevention and Prosecution Act is meant to improve coordination between federal, state, and local agencies.

FinCEN Advisory FIN-2011-A0003 includes red flags that financial institutions should be aware of when monitoring customer activity.
These include:

- Erratic or unusual banking transactions, or changes in banking patterns such as:
    - Frequent large withdrawals, including daily maximum currency withdrawals from ATMs;
    - 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 elder;
    - Uncharacteristic attempts to wire large sums of money; or
    - Closing of CDs or accounts without regard to penalties.
- Unusual interactions with customers or caregivers
    - A caregiver or other individual shows excessive interest in the elder's finances or assets, does not allow the elder to speak for himself, or is reluctant to leave the elder's side during conversations;
    - The elder 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 elder, despite repeated attempts to contact him or her;
    - A new caretaker, relative, or friend suddenly begins conducting financial transactions on behalf of the elder without proper documentation;
    - The customer moves away from existing relationships and toward new associations with other "friends" or strangers;
    - The elderly individual's financial management changes suddenly, such as through a change of power of attorney to a different family member or a new individual; or
    - The elderly customer lacks knowledge about his or her financial status, or shows a sudden reluctance to discuss financial matters.

Financial institutions are in a unique position to prevent, detect, and respond to elder care fraud as they come in contact with the victims and/or perpetrators. Most financial institutions know their customers personally and have the opportunity to observe interactions and/or transactions between the victims and perpetrators. By reporting this activity through the use of SARs, financial institutions are providing a means to help law enforcement identify individuals involved in the crimes. The SARs may be used to initiate investigations or to support ongoing investigations.

While many individual cases fall under the $5,000 SAR reporting threshold, filing voluntary SARs may help law enforcement identify criminal rings perpetrating these crimes. In order to help combat this problem and minimize losses, financial institutions should understand the red flags for elder abuse and have policies and procedures in place to guide the financial institution in investigating and reporting suspected cases of financial exploitation to the appropriate authorities.