

Watching out for our elders

Bankers man the frontline of defense against elder financial abuse

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According to a 2010 report by the U.S. Census Bureau, the population of Americans aged 65 and older is expected to rise sharply to over 80 million people by 2050. With such a projection on the horizon, it's no wonder that elder financial abuse is an issue at the forefront of the banking industry.

According to the National Committee for the Prevention of Elder Abuse (NCPEA), elder financial abuse is the "illegal or improper use of an older person's funds, property, or resources." This type of abuse can take many forms, including scams, identity theft, misappropriation of income or funds, and fraudulent powers of attorney.

Any demographic can be the target of financial abuse and fraud, but the elderly are particularly susceptible. Elders can be overly trusting, predictable in their routines, unfamiliar with technology, and may deal with a physical/cognitive impairment that impairs understanding. Elders also possess significant assets-70% of the nation's wealth, in fact. It is most often those closest to the elder who commit the abuse-family members and caretakers.

A new survey by the Investor Protection Trust and the Investor Protection Institute, identified three primary areas of elder financial exploitation: 1. "Theft or diversion of funds or property by family members" (79%); 2. "Theft or diversion of funds or property by caregivers" (49%); and 3. "Financial scams perpetrated by strangers" (47%). The survey polled a diverse group including state securities regulators, financial planners, health care professionals, social workers, adult protective services, law enforcement officials, and elder law attorneys.

In spotting and preventing financial elder abuse, bankers are on the frontline of defense because they establish relationships with their clients and are often the first to see irregularities or suspicious activity surrounding an elder's finances. The indicators of abuse can include new "best friends"; suspicious signatures; unpaid bills or worries about paying for common bills; and unusual activity such as unexplained, large withdrawals or changes in power of attorney.

To help bankers spot these signs of fraud, training programs and materials have been created. The ABA has made training resources available on a national level, and its most recent effort is an online eLearning course called Elder Financial Abuse. The course looks at the signs of abuse, how to respond, and the laws pertaining to elder abuse. The course is free for member banks enrolled in ABA's Frontline Compliance program; all others can take the course for a fee.

"We found an overwhelming response to the elder abuse course that we created. We've had more people sign up for that course almost than any other course we've offered," says Leslie Callaway, ABA Compliance project manager. "Banks are taking advantage of it and making sure that their frontline people are trained and are aware of this type of activity."

The benefits of the training often go beyond elder abuse, so that participants can recognize other types of frauds, as well. "A lot of the activities and the actions are very similar," says Callaway.

On the state level, banks are also making progress. Each state passes its own legislation on the proper response to elder abuse. California, for example, the state with the largest number of older Americans, requires financial institutions to report elder abuse. When the mandatory reporting law passed in California in 2005 (The Financial Abuse Reporting Act, SB 1018), the California Bankers Association (CBA) worked to create training materials on elder abuse, including Webinars and seminars, which helped banks determine their new role under the law. Today, the association offers a brochure to benefit both bankers and consumers.

CBA estimates that from the time the Act went into effect in 2007 to December 2010, more than 26,000 cases of elder abuse were reported.

But even banks in states without mandatory reporting laws are paying attention to elder abuse. "They have a moral obligation to educate their employees and a fiduciary responsibility to safeguard their client's resources, which includes not turning a blind eye to any suspicion of financial abuse against their most vulnerable client population-elders and dependent adults," says Lisa Owen, corporate officer/investigator at \$3 billion-asset Mechanics Bank in Richmond, Calif.

Linda Navarro, president & CEO of the Oregon Bankers

Association, agrees. "People want to do the right thing, and banks are really close to their customers. The key is absolutely providing knowledge and information and education to the people that are in a position of detecting that fraud."

Oregon is an example of a state where banks are not mandated reporters, but in which the Oregon Bankers Association has still been at the forefront of elder abuse awareness and prevention. As early as the mid-'90s, OBA helped to pass legislation that protected banks against liability for reporting suspected abuse in good faith. (Note: California also has safe harbor legislation that protects banks from liability if reported in good faith).

OBA also created a two-part training kit around the same time. The first part focused on training bankers, and the second on training the community. "That was pretty innovative at the time. There were very few training programs for bank personnel out there, so it was used as a model for a lot of other programs that have been developed over the years," says Navarro.

Currently, OBA is working on updating the first part of its kit for bankers. The updates will include new video, materials, and reporting contacts, as well as information about how technology has changed fraud.

With laws on the books for a few years and training materials available, banks have started to take matters into their own hands. Mechanics Bank offers its employees annual, online training, as well as one-off training sessions for subsets of employees throughout the year. Employees can also access resources on the bank's intranet, which includes links to the form used to report suspected abuse, reporting contacts, an Elder Financial Protection Network brochure, and other information from sources such as the FTC.

The bank's annual, online training is conducted by an outside vendor. "Unless you're a very large institution, and you've got those in-house resources to customize your own program, I think a lot of businesses are outsourcing those trainings," says Owen.

At the \$2.4 billion-asset West Coast Bank in Lake Oswego, Ore., employees at all branches have access to a branch resource manual, which details what elder abuse is, how to recognize it, and what to do if you suspect it. Currently, the bank is reviewing a new elder financial abuse training PowerPoint, as well as the ABA's Elder Financial Abuse course. One of the presentations will become a part of the bank's annual training. "We're very proactive," says LynDene Linville, vice president and assistant corporate security manager at West Coast Bank. "We have a large number of elderly customers in our area so we're very aware of the situation and do everything that we can to protect our customers."

Even with training programs available to employees, challenges arise. For one, bankers still fear liability for reporting suspected abuse, and it's a fear that even states with safe harbor laws have a hard time shaking. "Banks are extremely aware of the customer's financial privacy," says Linville, "so it's important to train the employees that it's OK to report

suspected elder abuse."

In the absence of a safe harbor law, banks may use appropriate exceptions under privacy rules to make reports to prevent fraud or unauthorized transactions without fear of liability. "The privacy rules allow reporting to law enforcement for purposes of preventing crime and preventing exploitation," says Callaway.

Banks may file a suspicious activity report that goes to law enforcement, but many law enforcement offices are stretched so thin already that it could be a while before the claim is checked out.

Adding to the frustration is the lack of feedback to the reporting bank. Once a report is filed, many banks are left in the dark as to the result. "We submit our mandatory reports, but the agencies receiving our information are prohibited by law from sharing the results of their investigation," says Owen. "We report; we may continue to report on the same person, and very seldom do we ever know the outcome."

Often, challenges can come from the other side of the counter, as well. When suspecting abuse, especially in the case of scams, bankers have to be careful not to offend the elderly customer when bringing up concerns. "It's understandable that we have to give them the space to make bad decisions," says Owen. "Fraud by an unknown entity is still elder abuse, but it's less clearly identified and defined. We do our best to educate clients, but if they still refuse to acknowledge they're being victimized, there is not much that we can do. We may believe elderly clients are not acting in their own best interest; however we have to allow them to proceed. At the end of the day, it's still their money to use as they see fit."

Of course, banks are just one piece of the puzzle when it comes to combating elder abuse. "It's also important for family, friends, and caregivers to be vigilant," says Beth Mills, vice-president of Communications at CBA. "I think our banks have certainly stepped up with the new training and reporting requirements and have hopefully made a difference."

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