



COMPLIANCE NEWS, GUIDANCE & BEST PRACTICES

More best practices to help your firm serve aging clients and prevent senior fraud

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The news arrived at a most opportune time. A 78-year-old man had been caring for his sick wife when he was notified he had won the Costa Rican lottery. The \$4 million prize was his if only he could pay the taxes on the winnings. The senior had already forked over \$88,000 when he reached out to his financial adviser seeking more cash.

"He insisted that [the lottery] was real," recalls **Ronald Long**, J.D. regulatory affairs at **Wells Fargo Advisors** (\$375B in AUM) in St. Louis. "It was very difficult to talk him down from that."

The client had what he thought was the phone number for the Federal Reserve in Costa Rica, even though Wells Fargo pointed out the area code was for Washington, D.C. When the advisor declined to release funds, the man went to his lawyer. Before the attorney's call with Wells Fargo had lasted 30 seconds, the lawyer recognized his client had been swindled. The attorney voiced his own concerns about his aging client and said he would move toward conservatorship.

"In a nutshell, that is what we face a lot," says Long in recounting the real-life tale of the taken senior.

A raging problem

An aging population – many with more money than other demographics and some suffering from what the **SEC** calls "diminished financial capacity" – combined with con artists adept at using social media and finding vulnerable seniors create great risks.

"Financial planners really do have a responsibility to know whether their clients have the capability to enter into financial decisions," says **Wayne State University** gerontology Professor **Peter Lichtenberg**. He's testing a one-page (5-7 minute) questionnaire that may help advisers and others spot seniors with diminished financial capacity. It could be available next year.

We've shared suggestions in the past for how best to serve seniors struggling with such issues ([IA Watch](#), Aug. 16, 2010 and [IA Watch](#), March 17, 2014). Here are more.

First, be aware that 50% of seniors endure some form of hearing loss. "It's important to verify that they understand what you're saying," says **Michael Creedon**, DSW in Vienna, Va., who assists firms in spotting signs of trouble among an aging clientele. Don't shout, but consider using a flip chart to convey your message. And ask open-ended questions; avoid those that can be answered with a simple "yes" or a "no."

Look for "triggers" that could signal diminished capacity, says Lichtenberg. These include trouble completing paperwork, difficulty following directions or a conversation, missed appointments and frequent calls.

Four areas to assess

Ask questions built around the four pillars of Lichtenberg's questionnaire, he suggests. 1. What is the choice that you're making? 2. Do you know the purpose of the change (e.g., to protect their wealth, donate money, etc.)? 3. Do you appreciate the decision and are you aware of the potential consequences (the risks involved and how it could affect them over time)? 4. Do you have a cogent reason for engaging in this activity?

Wells Fargo has long recognized the burgeoning issue of dealing with aging clients with diminished capacity. Long developed a program to prepare. It starts directly: by asking the client if he or she has noticed any mental decline. These conversations aren't easy but they pave the road for future solutions, Long suggests.

Beyond this, the firm requires advisers to undergo 45-minutes of annual online training that tests their ability to recognize the signs of diminished capacity and elder financial abuse.

"The financial advisor is in the best situation to see [potential fraud] early," says Long. If the senior wires money to a faraway scoundrel, that cash "is not coming back," he says. The loss could devastate someone living on a fixed income.

He has [recommended](#) a five-step technique to help reps spot trouble:

1. **Observe:** Are there physical changes? Are patterns and habits different? Does the elder behave strangely? Is there a third party present with the elder whose behavior is odd?
2. **Wonder Why:** Why is this withdrawal multiples larger than before? Why has the elder just begun to send money to a foreign country?
3. **Negotiate:** Can the requested transaction be delayed? Can the check go in two names, elder and trusted third party? Can we only give a fraction of the money today, and more later?
4. **Isolate:** Get the elder alone, away from the suspected abuser—"Ms. Smith, please step into my office to confirm some account information," or "Please come with me to discuss some confidential information."
5. **Tattle:** Bring your concerns to a supervisor or manager immediately. Use your firm's reporting process.

A centralized approach

Wells Fargo staffs a centralized office to answer reps' questions. The office also maintains a "bible" containing the requirements of adult protective services in all 50 states. Be aware that some states require the reporting of senior frauds.

Such an overarching approach may be beyond the reach of smaller firms. Long recommends these advisers appoint one employee to become an expert on these issues, perhaps by attending a conference of your local adult protective services group.

"I always tell folks to look for irregular activity in the accounts themselves," says **Elizabeth Loewy**, general counsel/senior VP of industry relations at **EverSafe** in New York, addressing how to become aware of possible fraud. She used to prosecute fraudsters who preyed on the elderly as an assistant D.A. She's joined a firm that offers a subscription service (\$6 per month) that monitors a person's bank and investment accounts and acts at the first sign of trouble.

Other steps to combat diminished capacity include to obtain a signed consent from the aging client or a third party the adviser can contact. Beware that 50% of elder financial abuse occurs at the hands of their children, points out Creedon. A durable power of attorney also can help.

The SEC and the **Consumer Financial Protection Bureau** recently [teamed on tips](#) for preparing for diminished capacity. The SEC also recently released [five red flags](#) to help seniors avoid being taken. Creedon believes advisers should warn their aging clients that fraudsters are stalking them in an attempt to steal their

hard-earned cash.

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