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Monday, July 23, 2012

Elder Financial Abuse

She was already in her late nineties, a renowned and beloved philanthropist, bearing a name that symbolizes wealth and status. Her son was already a senior citizen, when he schemed to rob her of her independence, her wealth, her properties, and her dignity. She was suffering from Alzheimer's Disease, chronic anemia, and other ailments that affect the elderly. Properties of great value were sold without the mother's knowledge, or with her dubious consent, and then no record was kept of the distribution of the proceeds. Roberta Brooke Astor died on August 13, 2007, at the age of 105.

On November 27, 2007, indictments on criminal charges were announced against Mrs. Astor's son, Anthony D. Marshall, and attorney Francis X. Morrissey Jr.

The criminal charges were grand larceny, criminal possession of stolen property, forgery, scheming to defraud, falsifying business records, offering a false instrument for filing, and conspiracy in plundering Mrs. Astor's \$198 million estate.

The trial of Marshall and Morrissey started March 30, 2009, and on October 8, 2009 the jury convicted Anthony D. Marshall of one of two charges of grand larceny, the most serious of a number of charges brought against him. The grand larceny conviction carries a mandatory prison sentence, meaning that Marshall could spend between 1 and 25 years in prison. Francis X. Morrissey Jr. was convicted of forgery.

All the money and status did not protect Brooke Astor from the depredations of her son.

If this happened to her, then, for most of the elderly, lacking the benefits of money and status, how may they hope to protect their financial interests from similar scurrilous plundering, when they are old and infirm?

The Consumer Financial Protection Bureau is involved in providing financial protection against elder abuse; indeed, it is specifically tasked with that responsibility. The Bureau's [Office of Older Americans](#) is charged by the Dodd-Frank Act with examining certifications of financial advisors who serve elderly individuals and it plans to make recommendations to Congress on how to protect older consumers. Recently, the CFPB issued an information request regarding [Senior Financial Exploitation](#).

In considering the challenges that the elderly must face in order to avoid financial abuse, the following outline of the CFPB's recent information request should be looked upon as a set of questions, the answers to which may provide new ways and means to protect them from the snares of financial predators.

IN THIS ARTICLE

[Announcing the Information Request](#)

[Categories](#)

[Senior Financial Advisor - Certifications and Designations](#)

[Providing Financial Advice and Planning Information](#)

[Senior Certification and Designation Information Sources](#)

[Financial Literacy](#)

[Financial Exploitation of Older Americans](#)

[Financial Exploitation of Older Veterans of the Armed Forces](#)

[Library](#)



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Announcing the Information Request

Using statistics from a recent study, the Bureau noted that Americans ages 60 and up lost at least \$2.9 billion to financial exploitation in 2010 and that the total increased by 12 percent between 2008 and 2010. From 2008 to 2010, there was a 12 percent increase in the amount of money scammed from seniors. Also, women are more likely than men to be victims, and exploitation is most frequently perpetrated by family members and other persons in a position of trust.

CFPB Director Richard Cordray gave a speech at the White House on June 11, 2012, discussing the issuance of an information request regarding elder financial abuse. Dodd-Frank includes provisions that are intended to directly address the needs of senior citizens. Director Cordray said that misusing credentials that certify a person as an advisor for elderly clients is elder financial abuse, which instance he cites as but one reason for the information request. According to Mr. Cordray, based on the study, for each case of elder financial abuse that is addressed, forty-two actually go unreported.

Skip Humphrey, who runs the Office of Older Americans, has stated that the Bureau plans to look specifically at the needs of [senior veterans](#). He has also referenced pension buyout plans as a particular problem. And Naomi Karp, a policy analyst at the Office of Older Americans, has addressed the difficulty that older people may experience in finding trustworthy advice when they need it, but are suffering from age-related cognitive impairment.

Categories

The Bureau is seeking comments in response to these questions:

- Evaluation of senior financial advisor certifications and designations.
- Providing financial advice and planning information to seniors.
- Senior certification and designation information sources.
- Financial literacy efforts.
- Financial exploitation of older Americans, including veterans of the Armed Forces.

Senior Financial Advisor - Certifications and Designations

1. What resources do seniors have for determining the legitimacy, value, and authenticity of credentials held by their financial advisors and planners?

- What sources have been found most helpful, accurate, and thorough?
 - Among other things, comments could address issues such as state or organizational level review standards, evaluation practices, or selection criteria to determine the validity of proposed senior certifications or designations.

2. How effective are the existing sources at maintaining the legitimacy, value, and authenticity of credentials held by senior financial advisors and planners?

3. How effectively do existing accountability controls deter the misuse of senior advisor credentials? Examples of accountability controls include revoking credentials, public notices of disapproval, or other disciplinary actions.

Providing Financial Advice and Planning Information

4. What resources are available to explain the subject matter expertise presented or implied by specific certifications and designations?

- How effective are the publicly available sources at disseminating thorough, up-to-date information?
 - How effectively are seniors able to use the available resources to select a financial advisor with appropriate knowledge to address their specific financial needs?



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 - ▼ July (4)
 - [Elder Financial Abuse](#)
 - [Disclosure Integration, High Cost, and Counseling](#)
 - [CFPB: Treatment of Privileged Information - Final ...](#)
 - [CFPB: Next Up, Reverse Mortgages!](#)
 - ▶ June (2)
 - ▶ May (2)
 - ▶ April (3)
 - ▶ March (5)
 - ▶ February (2)
 - ▶ January (6)
- ▶ 2011 (106)
- ▶ 2010 (86)
- ▶ 2009 (8)

5. What sources of information on the fraudulent or misleading uses of senior certifications and designations are available?

- Comments could include, among other things, references to publicly available research or data sets, suggestions for other potentially available research or data, or other information on enforcement, civil, administrative, or criminal cases.

Financial Literacy

6. What financial education, counseling, or personal finance management programs are tailored to the unique financial needs of older Americans and their families or caregivers?

- Among these programs, what are the best practices in providing seniors financial literacy and robust, practical information on personal finance management?
 - Possible comments could address methods for improving recognition of unfair or deceptive financial practices; means for helping seniors plan for retirement, long-term care, and economic security; or approaches to consumer credit counseling and other financial literacy or financial protection practices.

Financial Exploitation of Older Americans

7. What types of fraudulent, unfair, abusive or deceptive practices target Americans age 62 and over?

- Comments could include unique types of financial exploitation or additional information concerning the examples listed below.
 - Power of Attorney or Guardian Abuse, whereby an agent under power of attorney or a court-appointed guardian uses his/her fiduciary authority (or a forged power of attorney instrument) to misappropriate the older person's assets and uses them for personal gain rather than for the support of the incapacitated older person.
 - Affinity fraud, in which the characteristics of a trusted advisor such as a member of the clergy or government official are impersonated by those attempting to extract payments or personal information from an older person.

Financial Exploitation of Older Veterans of the Armed Forces

8. What types of fraudulent or deceptive practices target older veterans and/or military retirees?

- Comments could include unique examples of financial exploitation or additional information concerning the examples listed below.
 - VA Aid and Attendance fraud, whereby veterans are advised to transfer retirement funds into irrevocable trusts that cause them to lose access to the funds and also become ineligible for Medicaid benefits; or,
 - Military pension buyout schemes, in which veterans are offered cash payments in return for their military pension payouts in a manner that could ultimately deprive the veteran of the majority of his or her pension.

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Consumer Financial Protection Bureau

Request for Information Regarding Senior Financial Exploitation
Request for Information

Dated: April 27, 2012
Announced June 14, 2012

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