Senior Investor Vulnerability

Final Report

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Executive Summary

An ageing population, whether due to declining fertility rates or rising life expectancy or a combination of both, is a global phenomenon with far reaching economic and social consequences for most countries. From the perspective of investor protection, the growing trend toward ageing populations is an important issue that should be addressed, as ageing and associated levels of physical and cognitive decline increasingly affect the capabilities of investors in markets worldwide. Indeed, research has detected a link between age-induced cognitive decline and impaired financial decision-making. Some research also correlates ageing with increased susceptibility to financial exploitation and fraud, at a time when many investors are assuming greater responsibility for their own retirement and financial future.

Given the relevance of these global trends, the International Organization of Securities Commissions (IOSCO) has sought to analyze the risks facing senior investors and to identify sound practices for managing these risks. This work is intended to raise awareness of the vulnerability of senior investors and the ways to improve their protection.

This report explores the views and experiences of IOSCO members with regard to senior investor vulnerability. It provides a list and description of sound practices for both regulators and financial services providers in this area, and includes a non-exhaustive bibliography of literature that may be helpful to regulators and interested parties who wish to explore the nexus between ageing and vulnerability. The report concludes with recommended next steps.

Nearly all of the IOSCO members surveyed for this report believe that seniors are at greater risk than other investors of losing money to fraud or of being taken advantage of by others. The biggest risks to senior investors are seen to be unsuitable investments, financial fraud committed by a non-family member and diminished cognitive capability that affects their financial decision-making. Other notable risk factors are complex products, deficient financial literacy, and social isolation. Although 74 percent of respondents to the survey say they have programs to protect seniors, this figure rests on the widely held belief that seniors are covered under existing investor protection programs and therefore do not require specific protection measures. In fact, 39 percent of survey respondents say they have no specific strategy or focus aimed at protecting seniors other than those covering all investors.

Overall, IOSCO´s work revealed steady growth in the number of senior investor protection strategies, indicating that jurisdictions worldwide are focusing more closely on the challenges facing elderly investors. IOSCO identified the following sound practices for both regulators and financial services providers in this area:

Sound practices for regulators:

1. Deliver educational programs and resources targeting senior investors.
2. Foster the development of senior-focused expertise within existing regulatory, educational or advisory programs.
3. Conduct research projects to better understand the risks and issues facing senior investors and the incidence and mechanics of investment fraud that affect seniors in their jurisdictions.
4. Develop guidelines and training programs for personnel reviewing transactions conducted with senior investors.

Sound practices for financial services providers:

1. Offer support to senior investors experiencing a life event during the product lifecycle.
2. Provide training and support for employees of financial services firms.

1. Introduction

Investor protection is one of IOSCO´s three core objectives. A rapidly evolving marketplace, innovative new financial technologies and increasingly complex investment products and financial services have put many investors at risk of suffering fraud, financial exploitation or the effects of unsuitable investments. But as the world population ages, few investor groups are growing as susceptible to misleading or fraudulent financial advice as senior investors. Indeed, social isolation and diminishing cognitive capacity can affect the judgement and decision-making capacity of senior investors, rendering them more vulnerable to financial abuse.

The purpose of this report is to identify the current and emerging risks that senior investors face, highlight current sound practices to manage these risks, and describe the key initiatives undertaken by IOSCO members to meet the challenges of an ageing population.

The context, perspectives, and practices discussed throughout this report derive in large part from a quantitative and qualitative survey of the members of IOSCO's Committee 8 on Retail Investors (C8), as well as a second survey of members of IOSCO's Committee 3 on Regulation of Market Intermediaries (C3) and the Affiliate Members Consultative Committee (AMCC).

This report has four parts. The first part describes the background and context of the study; the second summarizes the views and experiences of IOSCO members regarding senior investor vulnerability; the third provides a regulatory perspective; and the fourth offers sound practices for both regulators and financial services providers and intermediaries. It concludes with recommended next steps.

1.1 Definitions

Before proceeding, it is helpful to define several key terms used in this report.[1] Because the legal and common definitions of *senior investor*[2] vary widely from country to country, this

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1 These definitions are for the purposes of this report. Other international organizations (for example, the World Bank, World Health Organisation (WHO), International Federation of Ageing (IFA), Organisation for Economic Co-operation and Development (OECD) and International Monetary Fund (IMF) amongst others) may define these key terms differently.

2 For the purposes of this report, the term *senior investor* is used broadly to categorize the target audience. The C8 working group recognizes that other jurisdictions may use different terms, such as older consumer, senior consumer, mature consumer, elder, senior citizen, or older adult.

project does not purport to define the term or limit its meaning. For example, in the United Kingdom, pensioners can claim some pension benefits as early as age 55. In contrast, Japanese gerontologists define a senior as someone aged 75 years or more. For reference, the average age for statutory retirement in the 35 member countries of the Organization for Economic Co-operation and Development (OECD) in 2014 was 65 years for males and 63.5 years for females.

The term *financial advisor* or *registered financial advisor* refers to a financial professional or firm registered with the appropriate authorities/organizations and engaged in the investment advisory or securities brokerage business. The term *unregistered financial advisor* refers to an advisor or broker not properly registered or a fraudster.

Various organizations have their own definitions of a *vulnerable consumer*, resulting in subtle variations of the term. Most definitions focus on how a consumer's personal circumstances or characteristics—typically a cognitive or physical limitation, whether temporary or life-long—can increase the likelihood and severity of losses incurred on a financial transaction or series of transactions. Most definitions of *vulnerable consumer* refer to those consumers who may be susceptible to suffering harm, either temporarily or long term, at the hands of, inter alia, financial services providers or others purporting to be financial services providers.

It is important to distinguish between *investment fraud* and *financial fraud*. Investment fraud is a subset of financial fraud that occurs when someone '*knowingly misleads an investor using false information for the purpose of monetary gain*'.[3] Investment fraud includes scams like penny stock fraud, pre-IPO scams, oil and gas scams, Ponzi schemes, and high-yield investment program fraud, to name a few. More generally, financial fraud includes other types of economic frauds that are unrelated to investments, like lottery and sweepstake scams, as well as scams involving worthless or non-existent products, and services such as bogus weight loss products or fake memorabilia.[4]

Another distinction must be made between *financial exploitation/financial abuse* and *financial fraud*. The former is typically committed by a family member or trusted caretaker while the

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3 Beals, M., M. DeLiema and, M. Deevy (2015). Framework For a Taxonomy of Fraud, Stanford Center on Longevity Working Paper. Palo Alto, CA.

4 Kieffer and Mottola (2017). Understanding and Combating Investment Fraud. In Mitchell, Hammond, and Utkus (Eds.), *Financial Security and Retirement in an Ageing World*.

latter is often committed by an unregistered advisor or a stranger. According to the National Adult Protective Services Association (NAPSA) in the United States, financial exploitation/financial abuse involves trusted persons in the life of the vulnerable older adult, such as caretakers, family members, neighbors, friends and acquaintances, attorneys, bank employees, faith leaders, and doctors or nurses. It can include the misuse of funds or the failure to use funds that could benefit the older adult—essentially, neglectful behavior. Further, beyond the skimming and outright theft of assets, financial exploitation also involves efforts to limit the victim's access to assets or conceal information about their finances, according to the National Network to End Domestic Violence (NNEDV), also in the United States. In short, the perpetrators and the tactics used to commit financial exploitation/financial abuse are often quite different from those of financial fraud.

Using the definitional distinctions described above, this report focuses on: a) investment fraud targeted at senior investors and committed by an unregistered financial advisor or stranger; and b) registered financial advisors targeting senior investors for unsuitable investments.

1.2 Scope and methodology

This report is based on information and data derived from a literature review of relevant research, interviews with members, and the results of individual surveys of the members of two IOSCO policy committees and its Affiliate Members Consultative Committee.

IOSCO´s Committee 8 on Retail Investors surveyed its members on their views and experiences regarding senior investor vulnerability and to identify relevant research. In some cases, data were collected through interviews and videoconferences. The results of the literature review can be found in Appendix A. For the literature review, C8 members were asked to provide relevant research reports that they have conducted and/or used to inform their work on senior and vulnerable investors. In addition, the working group conducted a broader search of academic work and other research related to senior investor protection. The working group also surveyed members of IOSCO's Committee 3 on Regulation of Market Intermediaries (C3) and the Affiliate Members Consultative Committee (AMCC), on their perceptions of risks and regulatory and industry practices.

Twenty-eight C8 members responded to the survey and seven members/groups responded to the C3/AMCC survey. One group responding to the AMCC survey distributed the questionnaire among its membership, garnering more than 2,600 individual responses that informed the organization's consolidated response. A full summary of survey results can be found in Appendix B. A copy of the C8 survey can be found in Appendix C, and a copy of the C3/AMCC survey can be found in Appendix D. Appendix E contains a list of the C8 members, C3 members, and AMCC members who participated in the surveys.[5]

It is important to note that a review of formal suitability requirements applicable to intermediaries, whether statutory or conduct of business rules, is outside the scope of the project.

5 Unless otherwise noted, comments attributed to C8 members are taken from the survey.

2. Background and Context

2.1 An ageing world

The world population is ageing and understanding how regulators and industries can take on the challenges posed by this change is becoming ever more important. An ageing population gives rise to more people with cognitive limitations and, consequently, more people who are unable to find appropriate investment products or who are more vulnerable to financial fraud.[6] For example, cognitive impairment (whether mild or severe as in the case of dementia) and social isolation can impede a senior's ability to effectively and safely invest.[7] More information on the factors affecting senior investors is provided below.

Research by The World Health Organization (WHO) provides evidence of an ageing world.[8]

- Between 2015 and 2050, the proportion of the world's population aged 60 years or older will nearly double from 12 percent to 22 percent.
- The pace of population ageing is gathering momentum.
- Today, 125 million people are aged 80 years or older. By 2050, almost the same number of people (120 million) will live in China alone, and 434 million people will belong to this age group worldwide.
- In 2050, according to WHO estimates 80 percent of older people will live in low- and middle-income countries.

Developed economies, like Japan, Germany, Spain, the United Kingdom, and the United States, are more familiar with the challenges posed by increased life expectancy than are developing countries where the populations normally age at a slower rate, often because of the population´s poor state of health. However, low- and middle-income countries are experiencing the greatest change. In the next 30 years, countries such as Chile, the People's Republic of China, the Islamic Republic of Iran and the Russian Federation, also will have populations that are disproportionately old.[9]

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6 Wells commissioned by Age Concern (2015). An inclusive approach to financial products.

7 Kieffer and Mottola (2017). Understanding and Combating Investment Fraud. In Mitchell, Hammond, and Utkus (Eds.), *Financial Security and Retirement in an Ageing World.*

8 World Health Organization Ageing and Health Fact Sheet N°404 September 2015.

9 Ibid.

At its current growth rate, the ageing population poses a significant challenge for all jurisdictions. The rapid change is particularly challenging for developing economies as they may not have adequate services and/or systems in place to efficiently adapt to and cope with the growing number of seniors over a relatively short period.

2.2 Factors associated with the ageing of senior investors

Ageing

Normal ageing is associated with specific reductions in cognitive control processes necessary for adapting quickly to novel or shifting environmental contingencies. These capacities, often referred to as 'fluid' or 'executive' control processes, include mental flexibility, inhibition, working memory, as well as episodic memory, prospection (meaning the ability to look toward the future), and future planning.[10] Further, diminished executive control is also related to poor decision-making, problem-solving, and planning for the future.[11] It is worth noting that the rate and extent of cognitive decline varies. Some older adults may not decline to the point where the impairment negatively affects the senior's independence or decision making. Moreover, some benefits can also be derived from ageing: senior investors have lived longer and have more experiences to draw upon. This life experience, which is referred to as crystallized intelligence, 'can provide an alternate pathway to good decisions when the fluid intelligence pathway declines.'[12]

That said, some research studies suggest that senior investors may be more vulnerable to financial exploitation.[13] Research has examined correlates of susceptibility to scams in community-dwelling older adults without dementia. Researchers found that 'older age and

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10 Spreng, Karlawish, and Marson (2016). Cognitive, social, and neural determinants of diminished decision-making and financial exploitation risk in ageing and dementia: A review and new model, *Journal of Elder Abuse & Neglect*, 28(4-5): 320-344.

11 Ibid.

12 Baldassi, Johnson, and Weber (2013). Complementary cognitive capabilities, economic decision making, and ageing. *Psychology and Ageing*, 28(3): 595-613.

13 For example, see Gamble, K., P. Boyle, L. Yu, and D. Bennett (2014). 'The Causes and Consequences of Financial Fraud Among Older Americans,' Boston College Center for Retirement, Research Working Paper 2014-13, Boston, MA.

lower levels of cognitive function decreased psychological well-being, and lower literacy in particular may be markers of susceptibility to financial victimization in old age.'[14]

Ageing poses other potential risks in the delivery of financial services, which were raised at the World Economic Forum (WEF) Global Agenda Council on Ageing Symposium hosted by Age UK. 'One interesting aspect of the question is the "greying" of the financial advisor (FA) profession. The average age of FAs in the USA is 50.9 years and they are not being replaced. This may have implications for clients and firms, including poor financial advice and communication, departure from firm protocols, loss of clients, law suits and legal liabilities, damage to firms' reputations, etc.'[15] The Ontario Securities Commission (OSC) has started to explore this issue.

In relation to ageing financial advisors, Canadian Securities Administrators Staff, including OSC's Compliance and Registrant Regulation Branch, as well as Compliance Staff from the Autorité des marchés financiers of Quebec (AMF Quebec), published guidance in May 2017 for small "one-person" firms after a compliance sweep detected some common deficiencies that put some small firms at risk of failing to comply with securities legislation. The sweep found that 35 percent of small firms had either inadequate or no plans to address significant business interruptions and succession issues, raising concerns about the impact on the firm's clients in the event of the death, incapacitation or prolonged absence of the sole individual operating the firm. The guidance introduced after the sweep encouraged small firms to consider developing a written business continuity plan appropriate for the firm's size and business model, designating an individual to execute the continuity plan, and reviewing the plan annually.[16]

Mild Cognitive Impairment and Dementia

The Alzheimer's Association defines mild cognitive impairment (MCI) as something that causes cognitive changes that are serious enough to be noticed by the individuals experiencing them or to other people, but not severe enough to interfere with their daily life or independent

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[14] James, Boyle, and Bennett (2014). Correlates of Susceptibility to Scams in Older Adults Without Dementia. *Journal of Elder Abuse & Neglect*, 26(2):107-122.

[15] Age UK (2016), Managing ageing and cognitive decline: challenges and opportunities for financial services, https://www.ageuk.org.uk/Documents/EN-GB/Events/wef-symposium/WEF_global_agenda_council_ageing_symposium_report.pdf?dtrk=true

[16] See http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20170517_31-350_guidance-on-small-firms.htm.

function. Researchers have begun to study and document the deterioration in decision making effectiveness associated with mild cognitive decline.[17]

Alzheimer's disease is the most common type of dementia, a general term used to describe various diseases and conditions that damage brain cells.[18] The symptoms can include loss of memory, mood changes, and problems with communication and reasoning. These symptoms occur when the brain is damaged by certain diseases, including Alzheimer’s, or by a series of small strokes. Dementia is progressive, which means people with dementia and their caregivers are coping with changing, often diminishing abilities over time. These include the person’s capacity to make decisions about major life changes as well as day-to-day decisions. Eventually, those afflicted will need help with all their daily activities from numerous agencies spanning health and social care.[19]

To function independently in our society, an individual must possess financial capacity—the ability to handle money and manage his own accounts. Dementia, however, eventually leads to a loss of financial capacity.[20] A person with dementia therefore will find it increasingly difficult and eventually impossible to deal with everyday financial affairs, such as managing a bank account.

The Lawton Instrumental Activities of Daily Living Scale (IADL) is an instrument used to assess independent living skills. It assesses a person’s current functionality and measures the decline in functionality over time. The key skills include managing medications and daily activities such as shopping and using the telephone. The management of personal finances is also included as a key measure. A number of studies have concluded that a reduction in financial capability occurs at a very early stage of cognitive impairment.[21]

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17 Han, Boyle, James, Yu, and Bennett (2015). Mild cognitive impairment is associated with poorer decision-making in community-based older persons. *Journal of the American Geriatrics Society*, 63(4):676-83.

18 Alzheimer’s Association https://www.alz.org/research/science/alzheimers_research.asp

19 See https://www.alzheimers.org.uk/download/downloads/id/3379/what_is_alzheimers_disease.pdf.

20 Widera E, Steenpass V, Marson D, Sudore R. (2011). Finances in the Older Patient with Cognitive Impairment: He didn’t want me to take over. *The journal of the American Medical Association,* 305(7):698-706.

21 For example, see Pérès, Helmer, Amieva, Orgogozo, Rouch, Dartigues, and Barberger-Gateau (2008). Natural history of decline in instrumental activities of daily living performance over the 10 years preceding the clinical diagnosis of dementia: a prospective population-based study, *Journal of the American Geriatrics Society*, 56(1):37–44; Martin, Griffith, Belue, Harrell, Zamrini, Anderson,

This deterioration creates an environment of risk for the individual in that he or she may become more susceptible to fraud or financial abuse. It also creates challenges for financial professionals who may not be aware of the person's medical condition or prognosis.

Social Isolation

Age UK conducted an evidence review to 'underpin decision-making for people involved in commissioning, service development, fundraising and influencing'. The review defined isolation as 'the separation from social or familial contact, community involvement, or access to services. Loneliness, by contrast, can be understood as an individual's personal, subjective sense of lacking these things to the extent that they are wanted or needed'.[22]

Social isolation ranges from isolation that is imposed or involuntary to voluntary isolation.[23] A 2009 study suggests that voluntary isolation or privacy, if actively chosen, can be good for the human psyche. Involuntary isolation is considered negative, because it results in a loss of social intercourse and the support it provides to the individual or their support systems.[24] Further, a more recent study found that social isolation, regardless of cause, was common among elderly victims of financial abuse and suggests that having capable adults in a senior's life could reduce the risk of financial exploitation and also improve their general well-being.[25]

Social isolation may not be an issue in every country. In some countries older people may enjoy close relationships or live with their extended family, which reduces the chances of their suffering social isolation. This situation contrasts with research indicating that a large

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Bartolucci, Marson D. (2008). Declining financial capacity in patients with mild Alzheimer disease: a one-year longitudinal study. American Journal of Geriatric Psychiatry, 16(3):209–219; Triebel, Martin, Griffith, Marceaux, Okonkwo, Harrell, Clark, Brockington, Bartolucci, Marson (2009). Declining financial capacity in mild cognitive impairment: A 1-year longitudinal study. *Neurology*, 73(12):928–934.

22 Age UK, *Loneliness and Isolation Evidence Review* (Feb. 2011), available at https://www.ageuk.org.uk/documents/en-gb/for-professionals/evidence_review_loneliness_and_isolation.pdf?dtrk=true

23 Biordi and Nicholson (2009). Social Isolation. In P. D. Larsen & I. M. Lubkin (Eds.), Chronic Illness: Impact and Intervention (7th ed.).

24 Ibid.

25 DeLiema (2017). Elder Fraud and Financial Exploitation: Application of Routine Activity Theory. *The Gerontologist.*

proportion of financial loss occurs at the hands of an acquaintance and on many occasions a close family member.[26]

Fraudsters will deliberately use tactics to isolate potential victims from positive financial networks, such as regulated financial advisors or family and friends. The study of investment fraud by the UK Financial Conduct Authority (FCA) found that 'in some cases victims were instructed not to tell anyone about the investment (for example, due to potential repercussions on other people if the hostile takeover was revealed, or because it would devalue the investment if it were to become publicly known), while others were required to sign 'confidentiality agreements' by the fraudster about the supposed investment. Furthermore, fraudsters used a range of delaying tactics that prolonged their relationship with the victim and prevented victims from seeking timely information or support from their social networks or the authorities.'[27] The FCA also recently found that senior investors approaching retirement age are a key target for scams – 30 percent have received unsolicited approaches about pensions or investments in the last 12 months.[28]

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[26] Schafer and Koltai (2015). Does embeddedness protect? Personal network density and vulnerability to mistreatment among older American adults. *The Journals of Gerontology: Series B*, 70(1): 597–606.

[27] Understanding victims of financial crime: A qualitative study with people affected by investment fraud -Authors: Shannon Harvey, Jane Kerr, Jasmin Keeble and Carol McNaughton Nicholls Date: 03/03/2014 Prepared for: Financial Conduct Authority.

[28] FCA Financial Lives Survey 2017, p 79 - https://www.fca.org.uk/publication/research/financial-lives-survey-2017.pdf.

3. Views and Experiences Regarding Senior Investor Vulnerability

IOSCO, by surveying its members, sought to assess the risks facing senior investors and to determine if and how organizations in different jurisdictions deploy strategies to address such risks. This section summarizes the views and experiences regarding senior investor vulnerability as described by survey respondents. For a full summary of the survey results see Appendix B.

3.1 Senior investors are at a greater risk

Survey respondents held the nearly unanimous view that senior investors are at greater risk than other investors of losing money to fraud or of being taken advantage of by others. Several respondents provided additional statistical research to support this statement.[29] Others said that although they lacked sufficient data to demonstrate that seniors are at greater risk than other investors, they had anecdotal evidence that seniors may be at greater risk of investing in unsuitable products as their life circumstances change with age and retirement.

The Financial Planning Standards Board (FPSB) conducted a follow-on survey among Certified Financial Planner professionals worldwide. The survey garnered over 2,600 responses from 12 territories—including Australia, Canada, Hong Kong, Indonesia, Malaysia, Namibia, The Netherlands, New Zealand, Singapore, South Africa, Turkey, and the United States. The FPSB found that the majority of respondents perceived seniors to be at greater risk of losing money compared with the average investor, due to unscrupulous practices (e.g., blind trust of advisors or family members, aggressive sales tactics, lack of technical and financial education). Some of the respondents also noted that seniors are particularly vulnerable because of the shortened time horizon for investing which may lead to product selection that does not conform with their needs or individual risk appetite.

3.2 Risks to investment-related decisions faced by senior investors

When asked to identify the risks to seniors´ investment-related decisions, respondents said they perceived two key risks: unsuitable investments and financial fraud by someone other than a family member or caretaker, such as a financial advisor or stranger. Other key concerns and risks for senior investors included diminished cognitive capability affecting financial

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[29] A list of relevant research appears in Appendix A, along with a brief summary of each report.

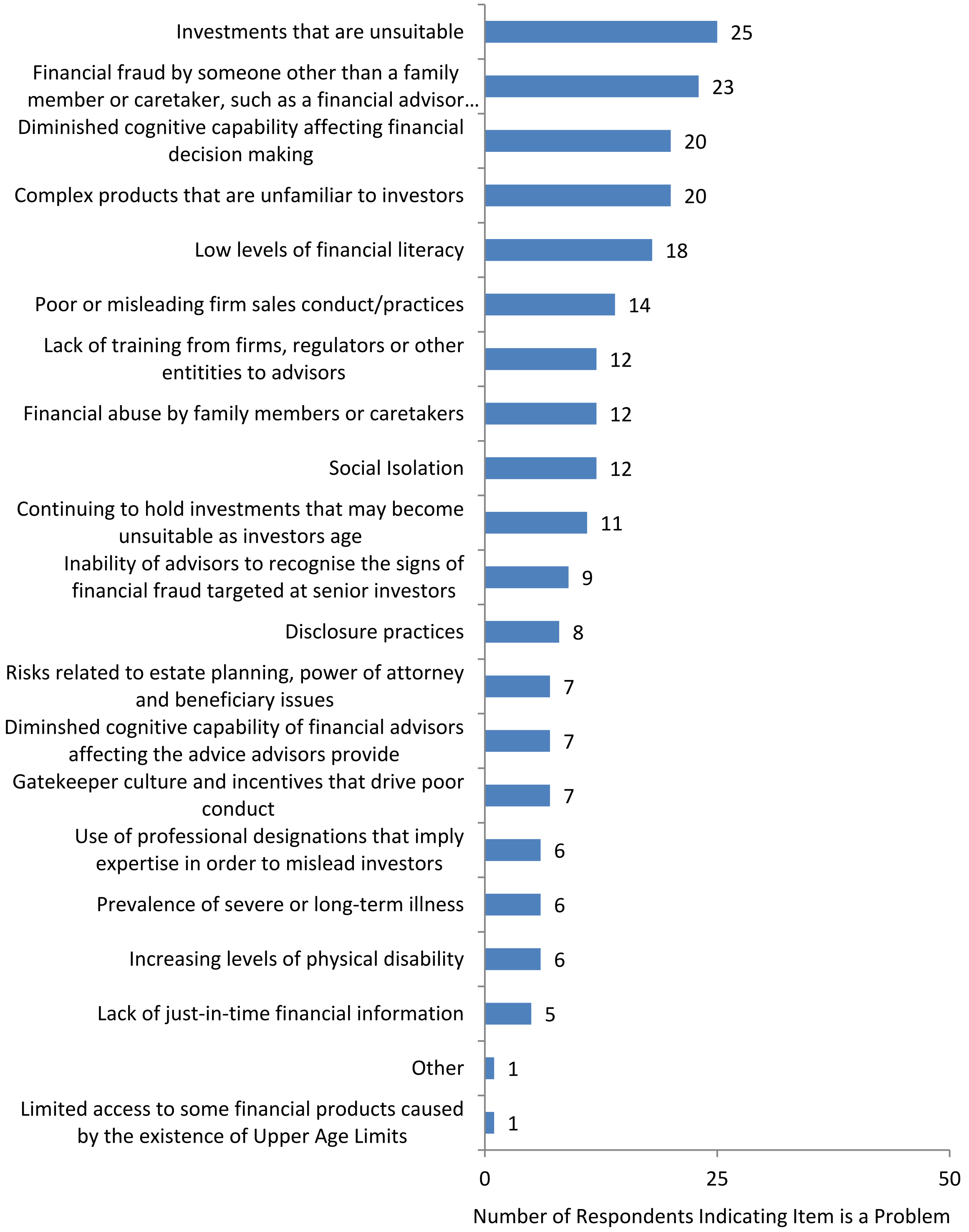
decision-making and complex products that are unfamiliar to investors. Figure 1 shows the responses to the question on the risks around investment-related decisions. The UK Financial Conduct Authority (FCA) was the only respondent who believed that age limits that restrict access to some financial products were a risk to senior investors, due to the impact on mortgages in the UK.

Respondents saw no specific risks to senior investors from a lack of just-in-time financial information, which some members considered to be a general risk to all investors and not just to senior investors.

The FCA noted that new advanced technologies, coupled with the difficulties senior investors generally have mastering new technologies, may impede seniors from using some advisory services. A few respondents indicated that the growing use of online communications and digital disclosure was an additional area of risk for many senior investors, particularly for those who may be less technologically proficient or unaccustomed to receiving information in a digital format.

A number of respondents said that senior investors typically face the same risks as most other investors, while most issues affecting seniors could also be of concern to investors from other demographics, including matters of suitability and client due diligence.

Figure 1: Risks to investment related decisions faced by senior investors[30]



Note: Some questions shortened for presentation purposes. See Appendix C for actual question wording.

30 These figures result from the survey to C8 members.

3.3 What is being done to protect senior investors and address their needs?

Programs and policies to protect senior investors

Nearly three-quarters of survey respondents agreed with the following statement: 'My organization has programs and policies in place to protect senior investors.'[31] Many of the respondents said they have general policies for financial institutions that also serve to protect senior investors. Instead of introducing specific programs and policies to protect senior investors, they rely on existing practices to manage suitability and risks—that apply to all investors regardless of age or perceived vulnerability.

Strategy or focus for addressing the needs of senior investors

Fifty-nine percent of the survey respondents reported that their organization has a specific strategy or focus for addressing the needs of senior investors that is distinct from the organization's general approach to protecting vulnerable investors. Thirty-seven percent said they had no special strategy for seniors, and four percent were unsure.[32] Of those without a specific strategy or focus, most said that senior investors were covered by the same general strategies for vulnerable investors, and no special provisions specifically targeted investors over a certain age.

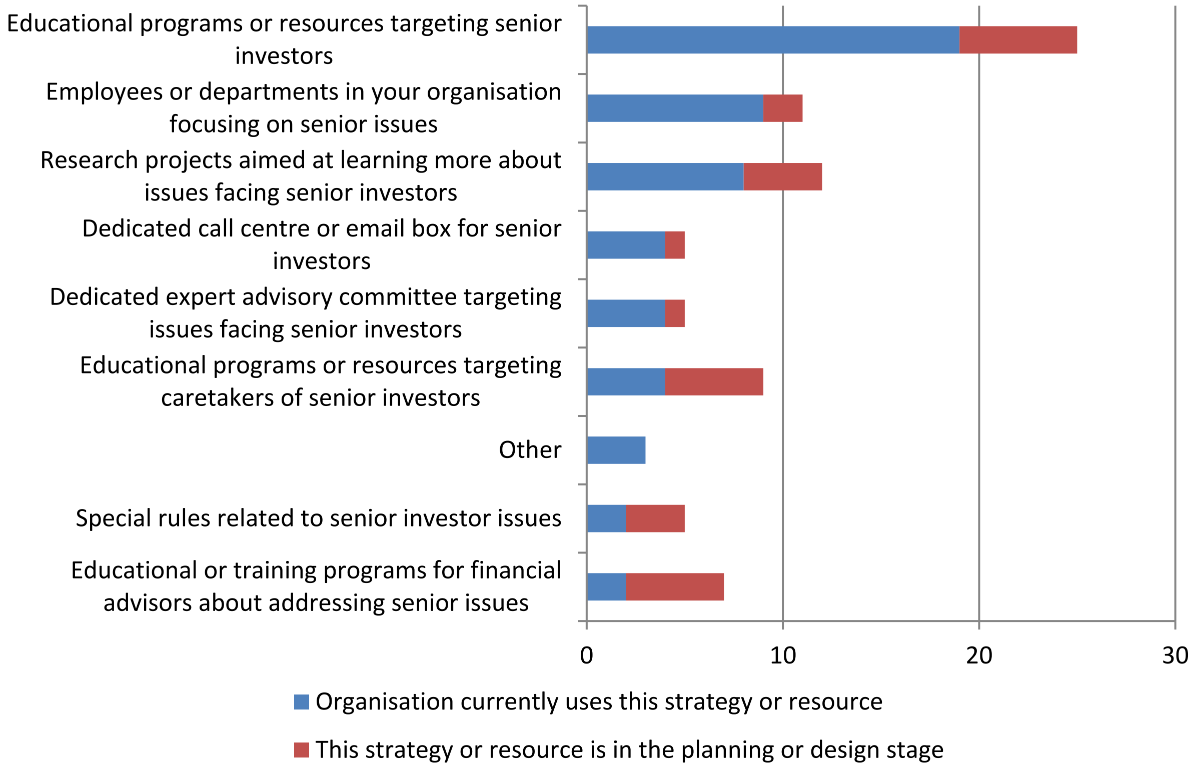
Strategies or resources used to protect senior investors

Respondents said educational programs or resources were the instruments used most frequently by organizations to protect senior investors. Figure 2 illustrates how survey respondents rely on educational programs as the key tool for protecting senior investors.

[31] Ibid.

[32] Ibid.

Figure 2: Strategies or resources used to protect senior investors[33]



Note: Some questions shortened for presentation purposes. See Appendix C for actual question wording.

Eight respondents said they were conducting research on the issues facing senior investors, and a further four organizations reported they planned to undertake similar work. Nine respondents currently have employees or departments focusing on senior investor issues.

Only two respondents offer financial advisors educational or training programs on senior investor related issues, and only two respondents reported having special rules related to senior investors. However, seven stated that at least one of these measures are planned or in development.

As a complement to traditional investor education and outreach strategies, some jurisdictions have deployed alternative tactics to better understand and engage with senior investors. For example, in 2015, the Financial Industry Regulatory Authority in the US (FINRA) established a toll-free Securities Helpline for Seniors that enables older investors or their representatives to contact FINRA for assistance or to raise concerns about issues with brokerage accounts and

33 Ibid.

investments. Staffed by personnel with examinations experience, the strategy features both educational and regulatory elements.

Overall, the survey revealed that a growing number of jurisdictions have senior investor protection strategies and are concerned with the issues facing aging investors. Also half of the more than 2,600 Certified Financial Planner professionals that responded to the FPSB survey planned to take extra steps when dealing with senior investors, such as changing the way they communicate with seniors to better facilitate understanding.

Specific rules or guidance for dealing with senior investors

When asked whether there were specific rules or guidance in place for financial services providers or intermediaries in their particular jurisdiction, 15 respondents said yes (54 percent), and 11 said no (39 percent). Two respondents answered 'unsure'.[34] The next section on the regulatory perspective provides various practical examples of jurisdictions that have developed specific rules or guidance for financial services providers or intermediaries.

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[34] Ibid.

4. The Regulatory Perspective

4.1 Existing regulations that already include senior investors

The majority of jurisdictions do not have explicit legislation or regulatory requirements focused on senior investors. However, many jurisdictions indicated that no special provisions for seniors are required as seniors are protected under general rules for all vulnerable investors. For example, the Comisión Nacional del Mercado de Valores (CNMV) of Spain wrote that 'in case of the provision of portfolio management and investment advice, intermediaries should take into account the knowledge, experience, financial situation and risk profile of the investor.' This approach is common to many jurisdictions.

The Canadian Securities Administrators (CSA), which includes the Ontario Securities Commission (OSC) and the Autorité financiers des marchés of Quebec (AMF Quebec), explained that 'the current laws in Canada impose a duty on registered financial advisors and dealers to deal fairly, honestly, and in good faith with their clients. Such an obligation applies for all kind of clients, including senior clients. Generally in Canada, registered dealers and advisors must ensure that any security purchase or sale recommended for a client is suitable, and a registrant must take reasonable steps to explain the attributes and associated risks of the products they are recommending to clients (commonly referred to as know-your-client (KYC), know-your-product (KYP), and suitability obligations).'

In Canada, advisors that manage accounts on a discretionary basis are also subject to a fiduciary duty.

4.2 Some jurisdictions are making changes

Japan

Financial Services Agency, Government of Japan (JFSA) has set forth in its supervisory guidelines to conduct reviews of sales structures, internal monitoring systems, and post-sale follow up of transactions with senior investors, noting that senior investors' ability to make investment decisions could deteriorate due to physical decline or be temporarily impaired even when they have ample investment experience. These guidelines refer to the rules issued by the JSDA, which elaborates on specific requirements regarding solicitation and transaction involving senior investors. The supervisors also assess whether or not the firm follows up with senior investors in a careful manner after the sale of the product, for example, by trying to understand their issues from their viewpoint, advising them on these issues, and assisting them with their investment judgement.

The Japan Securities Dealers Association (JSDA) stated that there are many cases in which sales representatives contact senior customers who are not conscious nor show obvious symptoms of their mild cognitive impairment. Similarly, there are many cases in which sales representatives themselves are unaware that the customer is facing cognitive impairment. For these reasons, family members are often the first to alert firms to the cognitive impairment of a customer. JSDA reported an increase in the number of cases in which family members lodge complaints about or dispute with financial institutions the transactions of these customers.

JSDA introduced specific rules and guidelines—'Points of attention regarding solicitation targeting elderly customers'—that its members must adhere to when offering and selling financial products to senior investors (someone 75 years or older). Prior to these rules and guidelines, financial institutions each had their own processes for handling senior customers. Use of these rules and guidelines fosters a more consistent approach across the whole industry.

JSDA guidelines clarify that its association members must establish internal rules when:

- determining the range of financial products (complex, low-liquidity products, etc.) that require specific procedures when offered to senior investors
- receiving approval by an experienced manager before offering such products
- leaving one day between offering and accepting orders for such products, in principle to give senior investors time to fully understand their investment decision
- accepting orders by a person other than the salesperson
- checking senior customers' awareness of the offer after execution by a person other than the salesperson
- monitoring that offering and its execution to ensure they are conducted in accordance with the internal rules

United States

In the United States, staff from the Financial Industry Regulatory Authority (FINRA) and the Securities and Exchange Commission (US SEC) issued a joint report in April 2015 to help broker-dealers assess, craft, or refine their policies and procedures for investors as they prepare for and enter into retirement. The report highlights regulatory and industry trends pertaining to seniors, and includes observations and practices identified by the two regulators during a series of regulatory examinations that focused on how firms conduct business with senior investors. Topics covered include the types of securities purchased by senior investors, the suitability of recommended investments, training of brokerage firm representatives, marketing, communications, use of designations such as “senior specialist,” account documentation, disclosures, customer complaints and supervision. In addition, the report lists in an appendix an array of relevant laws, rules and industry guidance.

In some cases, a firm may be the first to be alerted to signs of financial fraud. For instance, a firm may identify that a senior investor is issuing instructions to disburse or transfer funds to what they suspect is a fraudulent or illicit scheme. To address suspected financial exploitation of seniors and other specified adults, the US SEC approved a rule proposal from FINRA that involves two key steps to protect investors: (1) the adoption of new FINRA Rule 2165 (Financial Exploitation of Specified Adults) to permit firms to place temporary holds on disbursements of funds or securities from the accounts of specified customers where there is a reasonable belief of financial exploitation of these customers; and (2) amendments to FINRA Rule 4512 (Customer Account Information) to require firms to make reasonable efforts to obtain the name of and contact information for a trusted contact person for a customer’s account.

In addition, in April 2017, FINRA announced that the National Adjudicatory Council (NAC) revised FINRA’s *Sanction Guidelines* to include a new principal consideration titled “Consideration for Vulnerable Customers.” The NAC is FINRA’s appellate tribunal for disciplinary cases and is a 15-member committee composed of industry and non-industry members. The new principal consideration reaffirms that financial exploitation of senior and other vulnerable customers should result in strong sanctions. While FINRA’s decisions have acknowledged that exercising undue influence is an aggravating circumstance on a case-by-case basis, the new principal consideration makes clear that the Sanction Guidelines contemplate coverage for vulnerable individuals or individuals with diminished capacity, which may include senior investors.[35]

Quebec

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35 http://www.finra.org/newsroom/2017/national-adjudicatory-council-introduces-new-sanction-guidelines.

In Quebec, Parliament passed legislation (Bill n°115: An Act to combat maltreatment of seniors and other persons of full age in vulnerable situations) ("Bill 115") that widens the provisions of several Acts authorizing the communication of personal information, without the consent of the person concerned, to prevent an act of violence. Such legislative modifications are applicable to the representatives supervised by the Autorité financiers des marchés of Quebec (AMF Quebec).

Bill 115 in Quebec also introduces the obligation for different ministers and public organizations, including the AMF Quebec, to enter into a framework agreement concerning maltreatment of seniors by the end of 2017. The framework agreement must, among other things, stipulate the parties' obligation to make sure an intervention process is established in each region that takes into account different regional realities. It will provide for the authorization to report any suspected case of maltreatment to any person authorized to receive such reports under the intervention process.

Linked with Bill 115 and the Government Action Plan to Address Elder Abuse (2017-2022), the AMF Quebec is currently working on a "Good Practices Guidance" for professionals within the financial sector, which will provide orientations on how to interact with and adapt their practice to clients in a vulnerable situation.

Furthermore, AMF Quebec Compliance Staff published a bulletin[36] offering guidelines on that subject. In an effort to raise awareness of Registrants on the importance of recognizing signs that some clients may be in a vulnerable situation, AMF Staff encourages the adoption of good practices at all levels by entities, registrants and even representatives in the context of offering products and services to such clientele.

Hong Kong

The Hong Kong Monetary Authority (HKMA) has worked closely with the Hong Kong Association of Banks to introduce rules which require Authorized Institutions (AI) to offer additional levels of protection to certain groups of investors when investing in derivatives. Senior investors are one such group. The Pre Investment Cooling off Period (PICOP) provides

[36] Info-Conformité – Volume 6, No 2.

a period of two days, of which the last day should be a business day, to allow customers to better understand the product, consider the appropriateness of the investment and consult with family members and friends.

5. Sound Practices

In this section, we highlight a series of sound practices regarding senior investors that are based on the aforementioned research and feedback from IOSCO members that participated in this work. We have identified sound practices for regulators on the one hand, and sound practices for financial services providers on the other. Practical examples are provided to illustrate good practice that regulators and financial services providers have developed to help achieve better outcomes for senior investors.

5.1 Sound practices for regulators

1. ***Deliver educational programs and resources targeting senior investors***

In addition to educational initiatives aimed at a range of investors, regulators interested in mitigating senior investor vulnerability might consider developing and disseminating messages and tools that are designed specifically for seniors (as that term is defined within the jurisdiction). In several instances, C8 members have indicated that collaborating with external experts— as appropriate and when available— has helped in both the design and delivery of senior-focused programs. As noted in the examples below, these external experts include academics, medical professionals, non-profit organizations that serve older audiences, law enforcers, or victim advocates.

Illustrative Examples:

United Kingdom

The **UK Financial Conduct Authority** (UK FCA) developed ScamSmart, a public education campaign targeted particularly at senior investors. The campaign includes materials designed to resonate with potential victims to help them realize that they have been targeted by an illegal or fraudulent scheme. A firm can use this support material to help reassure vulnerable senior investors that the firm is acting in their best interests by steering them away from a potential scam.

United States

The **Financial Industry Regulatory Authority** (FINRA)'s Office of Investor Education and the FINRA Investor Education Foundation regularly provide education and resources for the investing public, including events and targeted materials for senior investors that focus on matters related to, among other things, retirement and fraud. The Foundation also manages a range of national, state and grassroots partnerships, and develops tools and programs for law enforcement and victim advocates to advance investor protection and fraud prevention initiatives.[37]

Staff from the **US Securities and Exchange Commission** (US SEC) participates in a variety of activities focused on educating older adults about investment products and potential scams, including participating in-person outreach events that focus on senior investor issues or are attended by older Americans. These activities range from giving presentations at national conferences to staffing exhibit booths at financial fairs and local events.

US SEC staff also regularly publishes a variety of investor alerts and bulletins warning investors of possible fraudulent schemes, and educating them on investment-related matters, many of which focus on topics relevant to senior investors. For example, US SEC staff worked with the US Consumer Financial Protection Bureau's Office of Older Americans to issue a joint investor bulletin and consumer advisory to help investors and consumers understand the potential impact of diminished capacity on their ability to make financial decisions and to encourage them to plan for possible diminished financial capacity well before it happens.

US SEC staff also distribute hard-copy brochures on investing to older Americans and others through various distribution channels including, among others, libraries and senior centers.

SmartCheck is a campaign from the US Commodity Futures Trading Commission (US CFTC) that informs investors about tools that help them research the credentials of financial professionals, uncover any past disciplinary history, and stay ahead of scam artists with news and alerts.

Singapore

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[37] More information is available at www.SaveAndInvest.org/ProtectYourMoney.

The **Monetary Authority of Singapore** (MAS), through MoneySENSE, the national financial education program, also plays an active role in educating investors, including senior investors, to empower them to critically assess investment opportunities and assume responsibility for their financial decision-making. For example, the Institute of Financial Literacy (collaboration between MoneySENSE and the Singapore Polytechnic) provides free educational talks and workshops on topics such as retirement and estate planning, and 'is the deal too good to be true'.[38] The Institute has also partnered with organizations serving the community to bring financial education to seniors.

Brazil

The **Comissão de Valores Mobiliários** (CVM) of Brazil has set up a working group with academics (mainly from the area of Psychology) and public institutions (Offices of Public Prosecutor and Public Defender) to study the vulnerabilities of senior investors and design educational initiatives for them. The working group has held four educational events for senior investors and lectured on topics such as forms of violence (including financial violence) against elders, consumer protection, financial well-being, and financial planning. The group also edited a leaflet with tips and recommendations for the senior target audience and is carrying out research on risk, financial well-being, and decision making among investors, especially seniors.

Spain

The **Comisión Nacional del Mercado de Valores** (CNMV) of Spain has specific educational contents for senior investors on its web site Finanzas Para Todos.[39] For example, it includes information about how to plan for retirement and information about the different economic benefits that senior investors can access in case of necessity.

Australia

Resources and information designed to educate the over 55s are currently available on the MoneySmart website of the **Australian Securities and Investments Commission** (ASIC). ASIC is currently working on resources to assist people, including seniors, to better understand what 'good' financial advice looks like and increase their likelihood of accessing financial

[38] See http://finlit.sg/programmes/.

[39] See www.finanzasparatodos.es.

advice well matched to their needs. A lack of trust in financial planners is one of a number of barriers to seniors seeking their advice, when perhaps it could be beneficial. ASIC's MoneySmart website also provides a Financial Advice Register of people who provide personal advice on investments, superannuation and life insurance. Seniors (and others) can use this register to find out key information about a specific advisor, including the advisor's work history, qualifications, training, memberships of professional bodies and what products they can advise on.

Jersey

The **Jersey Financial Services Commission** (JFSC) has developed Financial/Investor Education strategies focusing primarily on two categories of investor (1) future investors (i.e. secondary schools' students across the jurisdiction); and (2) vulnerable investors, with recent campaigns specifically focusing on the elderly (senior investors). A number of communication campaigns have been run to date by the JFSC and a number of further campaigns have been developed and are planned to be launched over the next 12 months. The JFSC works closely with a number of other stakeholders based in the Island who are well placed to assist with educating and reaching out to the JFSC's target audience.

Ontario

The **Ontario Securities Commission** (OSC) continues to provide a comprehensive suite of educational tools and resources for investors through its award-winning investor education website, GetSmarterAboutMoney.ca, which features a new section focused on issues related to ageing, including information on preventing investment fraud, working with a financial advisor, and planning for, as well as living in, retirement.

The OSC's Investor Office holds regular community engagement events and presentations that are frequently aimed at providing information to senior investors. Dubbed *OSC in the Community*, these presentations provide senior investors with valuable information about recognizing and preventing investment fraud, as well as tips for selecting and working with an appropriate financial advisor.

The Investor Office has also introduced a new '*teletownhall*' program, which is similar in format to a call-in radio show, with OSC staff providing information, answering questions and conducting live polls over the course of one hour.

Japan

The **Japan Securities Dealers Association** (JSDA) has the following education programs aimed at protecting seniors: Conducting street campaigns to prevent people from becoming victims of investment fraud in collaboration with the police and other authorities (50 cities in 2015); Operating a call center to prevent people from becoming victims of investment fraud (1,167 calls in 2015); Alerting investors by illustrating on the JSDA website actual methods used by fraudsters; and Holding financial knowledge seminars for seniors.

Financial Services Agency, Government of Japan (JFSA) organized "The Symposium for Defending against Financial Trouble".

Hong Kong

The **Hong Kong Investor Education Centre** (IEC) has defined retirees as one of the target groups with higher priority in financial education. Retirees refer to those who have left full-time employment. IEC targets financial education towards those with a sum of retirement savings to manage. On top of basic money management skills, the IEC develops programs, content and resources to educate proper financial and estate planning during retirement.

Belgium

Wikifin.be[40] is the financial education program of the **Financial Services and Markets Authority** of Belgium (FSMA). At the Wikifin.be website you can find independent, reliable, and practical information on money matters. The website also contains quizzes, handy tips, and tools such as the savings account simulator, an inheritance simulator, and a housing simulator.

Quebec

AMF Quebec partners with leading seniors' associations to offer conferences and information on its assistance services that are particularly helpful to seniors (complaints, compensation, etc.). Through its Education and Good Governance Fund, the AMF Quebec has granted a

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40 See https://www.wikifin.be/

project dedicated to Social services caretakers & professionals involved in social services addressed to Seniors from Cultural Communities (immigrants) which appear to be more frequently targeted in affinity fraud schemes (linked with Figure 6).

The AMF Quebec has signed an agreement with Regional Crime Victims Assistance Centre (CAVAC) in an effort to break the isolation of victims of financial crime and help them regain control over their lives.[41]

Argentina

Securities and Exchange Commission of Argentina (CNV) organizes seminars, meetings and workshops aimed at all investors and senior investors, working together with all CNV's divisions, all capital market's institutions and other State Agencies and Departments. For example, CNV gave a presentation on financial education for elderly (retired staff and staff close to retirement), together with the Federal Administration of Public Revenues of Argentina (Administración Federal de Ingresos Públicos - AFIP).

2. ***Foster the development of senior-focused expertise within existing regulatory, educational or advisory programs***

Several IOSCO members cited benefits from developing in-house expertise on issues of senior investor vulnerability and from convening third-party experts in the field in an advisory capacity.

Illustrative Examples:

United States

In April 2015, the **Financial Industry Regulatory Authority** (FINRA) launched the Securities Helpline for Seniors®—a toll-free number [844-57-HELPS] where senior investors can get assistance from FINRA on concerns with brokerage accounts and investments. The Helpline has provided valuable information for FINRA staff and supplied a direct channel of

41 See https://lautorite.qc.ca/en/general-public/assistance-complaints-and-compensation/crime-victims-assistance-centre/

communication with seniors. FINRA is better able to see issues firms confront when serving older investors—particularly those with diminished capacity. From inception through December 2017, more than $5.33 million has been returned to customers because firms proactively investigated issues raised to them by the Helpline and made customers whole when appropriate. The Helpline has received calls from more than 11,800 individuals from all 50 US states, the District of Columbia and Puerto Rico, and virtually every continent.

In April 2015, staff from the **US Securities and Exchange Commission** (US SEC) and FINRA issued a report on the National Senior Investor Initiative, summarizing a sweep in 2013 targeting 44 broker-dealers that conduct business with seniors. The report includes observations and practices identified in examinations that focused on how firms conduct business with senior investors. The examinations focused on the types of securities purchased by senior investors, the suitability of recommended investments, training of brokerage firm representatives, marketing, communications, use of designations such as "senior specialist," account documentation, disclosures, customer complaints, and supervision.[42]

US SEC staff annually hosts the World Elder Abuse Awareness Day Global Summit, which is convened by the National Adult Protective Services Association, the National Center for Victims of Crime, and the International Network for the Prevention of Elder Abuse, in collaboration with national and international partners.

Ontario

The **Ontario Securities Commission** (OSC) created its Seniors Expert Advisory Committee (SEAC) to serve as a forum to discuss and address the needs of older investors. Members of SEAC represent a variety of disciplines including law, academia, industry, medicine, enforcement and seniors' advocates. SEAC advises OSC staff on securities-related policy and operational developments that impact older investors and provides input on the OSC's related education and outreach activities.

The OSC's Compliance and Registrant Regulation Branch also recently conducted reviews of portfolio managers and exempt market dealers with a high percentage of clients who are 60

42 See US SEC OCIE staff-FINRA Report on National Senior Investor Initiative, available at https://www.sec.gov/news/pressrelease/2015-67.html.

years of age or over. The OSC will use the findings (as well as guidance from other regulators and organizations) to develop a series of best practices for these registrants when dealing with senior clients as part of the development of a holistic seniors' strategy that provides practical guidance, resources and tools to registrants, senior investors and their families.

United Kingdom

The **UK Financial Conduct Authority** (FCA) has a undertaken a specific project to look at how financial services are meeting the needs of older consumers in the UK, and has recently published an occasional paper on Ageing Population and Financial Services in September 2017.[43] This work focused on mass market issues and mainstream products that are particularly important for participation in financial services, such as retail banking and mortgages.

The FCA also commissioned research that explored the impact of cognitive ageing on financial decision making, and issues around third party access and informal 'workarounds' to manage money. In relation to senior investors, the FCA is separately looking at the susceptibility of senior investors to pensions scams (scams whereby funds are released from a consumer's pension pot for the purpose of unauthorized or high risk/unsuitable investments), and seeking to help consumers to spot the warning signs and avoid scams, including pension scams.

Portugal

The investors' department at the **Comissão do Mercado de Valores Mobiliários** (CMVM) of Portugal has a specific strategy in place to support older consumers, which entails maintaining a set of communication tools to reassure senior investors and to persuade them to seek help and guidance from the CMVM. For example, postal communication, personal meetings and direct telephone lines are made available to encourage senior investors to contact the CMVM.

Korea

The **Financial Supervisory Service** (FSS) formed a task force made up of representatives from securities firms and the Korea Financial Investment Association (KOFIA). This task force was responsible for establishing internal control guidelines for securities service providers,

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43 Ageing Population and Financial Services – Occasional Paper 31 published by the Financial Conduct Authority, September 2017, available at https://www.fca.org.uk/publication/occasional-papers/occasional-paper-31.pdf.

specifically focused on the protection of elderly investors. The guidelines suggested the establishment of an exclusive counter and counseling staff for elderly investors, both in branch and in call centers, as well as designated employees looking at internal policy and education for elderly investors.

3. ***Conduct research projects to better understand the risks and issues facing senior investors and the incidence and mechanics of investment fraud that affect seniors in their jurisdictions***

IOSCO members provided a wide array of examples that illustrate how research can better inform a regulator's educational efforts and, in some instances, policy-setting initiatives.

Illustrative Examples:

Italy

The **Commissione Nazionale per le Società e la Borsa** (CONSOB) of Italy has launched a policy research project in cooperation with a number of Italian Universities. This project is about digitalization and its expected impact on the Italian financial industry and the retail investors' market. CONSOB believes that senior investors might be a target as they are in general less digitalized and thus more vulnerable to financial exclusion (that means missing the opportunity to benefit from any cost savings / new financial products or services etc. that may derive from fintech / technological developments or, indeed, being more susceptible to scams and frauds). Consequently, CONSOB is implementing a specific strategy regarding senior investors' protection which will also take into account the digitalization of financial intermediation processes.

United States

With funding from AARP (American Association of Retired Persons) and the **Financial Industry National Regulatory Authority** (FINRA) Investor Education Foundation, psychologists at Stanford University conducted a study that found that inducing high-arousal emotions (i.e., anger or excitement) in older adults (ages 65 to 85) made them more susceptible to misleading advertisements, increasing their intention to buy the falsely advertised items. These emotions did not have the same effect on a younger adult sample (ages 30 to 40). An issue brief on the research is available at the Stanford Center on Longevity.[44] These results suggest that a state of high emotional arousal, regardless of whether positive or negative, could have a broad influence on older adults' susceptibility to fraud. When younger adults were examined separately, these same effects were not found. Further, whereas in younger adults greater advertisement credulity was associated with greater intention to purchase the item, credulity and purchase intention were not significantly related in older adults. These findings suggest that older adults' intention to purchase the advertised item was not based on perceived credibility, but rather on the emotional states that they were experiencing.

For nearly the last 10 years, the FINRA Investor Education Foundation has been conducting and funding research on financial fraud,[45] and some of these studies provide important insights on the relationship between ageing and fraud. The studies, which are listed in Appendix A, suggest that no single, stereotypical profile of a fraud victim exists, and that the ageing process appears to play a role in fraud susceptibility. However, the understanding of fraud victimization is hampered by a number of methodological and practical issues, including the lack of a clear definition of financial fraud and under-reporting by victims, so work continues in this area.

Ontario

In September 2017, the **Ontario Securities Commission** (OSC) released findings from a survey into the financial knowledge, attitudes, and behaviors toward retirement planning of Ontarians over the age of 45. The survey found that 45 per cent of pre-retired Ontario homeowners are relying on the value of their home increasing to fund their retirement. The survey also found substantial gender differences—for example, women aged 55 and older reported that they are more stressed when it comes to retirement planning. This research, among other things, is helping inform the development of the OSC's overall seniors' strategy.

In 2016, the OSC also released Financial Life Stages of Canadians 50+, research that examined personal finance and pre- and post-retirement planning. The study revisited some of the findings from a similar OSC study released in June 2015 (Financial Life Stages of Older Canadians). Key findings of the 2016 study included that nearly half of pre-retirees 50 years

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44 See http://longevity.stanford.edu/blog/2016/05/05/heightened-emotional-states-increase-susceptibility-to-fraud-in-older-adults-2/

45 See https://www.saveandinvest.org/about-us/investor-protection-campaign-research.

of age and older do not have a plan for retirement savings, and 1-in-5 have not yet started to save money for retirement.

Quebec

The **AMF Quebec** commissioned an academic study *The Legal Protection of Seniors against Financial Fraud & Exploitation (Prof. Raymonde Crête),* which was published in June 2014.[46]

Australia

The **Australian Securities and Investments Commission** (ASIC) recently completed a number of market research studies, including segmentation research, to better understand the needs of senior investors. The main findings of the research conducted have now been summarized and published online as ASIC Report 537, ´Building Seniors´ Financial Capability´.[47] This work is now informing development and curation of targeted information, tools and resources, as well as communication strategies. An 'Older Australians Coordination Group' has been convened within ASIC to consider a broad range of issues concerning older Australians.

4. *Develop guidelines and training programs for personnel reviewing transactions conducted with senior investors*

Several members of IOSCO pointed to initiatives that focus on education for the financial advisors and brokers who serve as intermediaries to older investors.

Illustrative Examples:

Japan

The **Japan Financial Services Agency**´s Guidelines for Supervision of Financial Instruments Business Operators (IV-3- 1-2 (3)) stipulates that the supervisor shall perform supervision, based on developing a program or mechanism that addresses the following points:

46 Available in French at https://www.grdsf.ulaval.ca/sites/grdsf.ulaval.ca/files/crete-rapport-etape_2014.pdf.

47 Available at http://download.asic.gov.au/media/4452034/rep-537-published-17-august-2017-2.pdf.

(i) Whether the operator has internal rules on solicitation which securities regulators gather—or, when feasible and sales activities targeting elderly customers and a system as permitted, independently conduct—research to monitor the status of compliance with such internal rules, based on the self-regulatory regulations of the Japan Securities Dealers Association, entitled 'Regulations Concerning Solicitation for Investments and Management of Customer, etc., by Association Members,' and 'How to Interpret Article 5(3) of Regulations Concerning Solicitation for Investments and Management of Customers, etc., by Association members,' (guidelines on sales through solicitation targeting elderly customers).

(ii) Whether the operator follows up elderly customers in a careful manner even after the sale of the product, for example by trying to better understand their issues from their viewpoint, advising them on their issues in every minor detail and assisting them with the incidence and mechanics of investment judgment fraud in their jurisdictions.

Taking into consideration the physical and cognitive declines that occur with age, the **Japan Securities Dealers Association** (JSDA) suggests that its association members set internal age thresholds at which protective measures will apply. JSDA requires members to adopt internal rules to protect seniors under its 'Rules Concerning Solicitation for Investments and Management of Customers, etc. by Association Members.' JSDA has issued guidelines to help members formulate internal rules for solicitations targeting seniors.

Singapore

Life Insurance Association Singapore published minimum standards for life insurance advisory process such that life insurance advisors are recommended to encourage customers to be accompanied by a trusted individual if they meet two of the following criteria:

- Aged 62 or above
- Are not proficient in spoken or written English
- Have secondary education or below

This practice is also encouraged for direct purchase insurance products, which can be purchased without advice.

United States

In October 2016, the **Financial Industry Regulatory Authority** (FINRA), in partnership with the Securities Industry and Financial Markets Association (SIFMA), an industry association, hosted a Senior Investor Protection Conference. This conference brought together financial advisors, regulators, compliance officers, attorneys, and academic experts for a joint conference dedicated to advancing efforts to protect our senior investors. This collaborative, day-and-a-half event focused on strategies and solutions to help financial professionals strengthen their roles as the first lines of defense against threats to this vulnerable group of the investing public. Topics included:

- Understanding the ageing decision maker
- Communicating with elder clients
- Training to work with senior investors
- How to identify situations of potential cognitive decline or senior financial exploitation
- FINRA's retirement webpage offers extensive information and tools related to saving for retirement and managing income once you retire

In December 2015, FINRA published its *Report on the FINRA Securities Helpline for Seniors* that described 'lessons-learned' from the Helpline. The report included effective practice tips for both firms and investors.

In 2013, FINRA hosted a 'Senior Investor Roundtable' for a group of firms to discuss their approaches to handling key aspects of their business with seniors, e.g., soliciting and opening accounts for seniors, managing the client relationship with seniors and suitability and the senior investor.

European Union

EU firms authorized to provide financial services within the EU must comply with MiFID rules when offering financial services/activities to retail investors including, among others, the suitability requirements. In July 2012, the **European Securities and Markets Authority** (ESMA) issued guidelines to clarify the application of certain aspects of the MiFID suitability requirements in order to ensure the common, uniform and consistent application of the respective suitability provisions. At paragraph 23 of these guidelines there is a specific reference to the age: 'The client's age, especially, is usually important information firms should be aware of to assess the suitability of an investment. When determining what information is necessary, firms should keep in mind the impact that any change regarding that information could have concerning the suitability assessment.'

Thailand

The **Securities and Exchange Commission** (SEC) of Thailand has a specific notification for intermediaries to deal with seniors. Under Clause 5 of the Notification of the Office of the Securities and Exchange Commission No. Sor Thor. 35/2557 Re: Rules in Detail on Communication with and Providing Services to Clients of Securities Companies and Derivatives Intermediaries states that 'For communication with and providing services to clients, an intermediary shall provide or offer services suitable to each client carefully, especially with special care to the following clients:

(1) any individual who is sixty years old or older; and

(2) any person who has little financial knowledge.'[48]

Malaysia

The Guidelines on Sales Practices of Unlisted Capital Market Products of the **Securities Commission** (SC) of Malaysia stipulates that product distributors must undertake a suitability assessment of a potential client, which include age factors, before recommending an unlisted capital market product to him/her.

Ontario

The Compliance and Registrant Regulation Branch (CRR) of the **Ontario Securities Commission** (OSC) is also focused on older investors and ensuring that firms have adequate policies and procedures in place for the protection of investors, including older investors. Over the past year, CRR has adjusted its compliance reviews to include senior-specific questions regarding three business practices: training, policies and procedures, and communicating with seniors. Under these three business practices, CRR asked questions relating to suitability, elder abuse and signs of diminished capacity. Additionally, CRR updated its 'Know Your Client' (KYC) and suitability review section to include senior-specific questions relating to the firm's number of senior clients; how often senior KYC information is updated; whether different or additional KYC/suitability information is collected for seniors; and the types of products that seniors hold (including whether certain products are deemed unsuitable for seniors as a whole). CRR also updated its bi-annual Risk Assessment Questionnaire to registrants to determine the percentage of clients over the age of 60 that a firm has. A higher percentage of senior clients

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[48] Notification is available at http://capital.sec.or.th/webapp/nrs/data/6389se.pdf.

contributes to a higher risk score or indicator, which may result in more frequent and/or targeted compliance reviews of these registrants.

Korea

The guidelines set up by the **Financial Supervisory Service** (FSS) task force – made up of representatives from securities firms and the Korea Financial Investment Association (KOFIA) – suggest that organizations establish internal rules specifying the selling procedure for elderly investors and provide regular training to sales personnel in the exclusive call center. The guidelines also include conducting an examination of transactions suspected of mis-selling (e.g. by the compliance department on a regular basis); and providing one-day pre-investment cooling-off period (PICOP) to an elderly investor who is older than 80 years and unable to receive any advice or consult with a family member or a manager when accepting a sales offer. In March 2017, the FSS raised the PICOP standards to provide additional protection for elderly investors, including the provision of two-days PICOP and expanding its coverage to investors who are older than 70 years and invest in products with risk levels higher than their typical risk preference.

Financial Planning Standards Board (FPSB)

Of the 2,641 Certified Financial Planner professionals from 12 territories that responded to FPSB's survey, 47 percent (or 1,241) indicated that they have guidelines or programs in place to deal specifically with personnel providing financial advice or financial services to seniors. The guidelines include having the client complete a document providing instructions for what the advisor should do if they feel something is amiss with the client; asking the senior investor to involve their children or other trusted family member in discussions and decision making; holding all meetings with senior clients in person rather than telephonically or by video; providing extra time to explain investment options and answer questions; and creating custom materials to explain options in a clear, easy to understand way.

5.2 Sound practices for financial services providers

In addition to the sound practices for regulators described above, IOSCO´s work identified two additional sound practices pertaining to financial services providers.

1. Offer support to senior investors experiencing a life event during the product lifecycle

Illustrative Examples:

United Kingdom

The work by the **UK Financial Conduct Authority** (UK FCA) on the ageing population found that one firm had developed a Bereavement Guide that signposts to other organizations such as local authority Registration Offices. It also covers important services such as emotional support agencies and who to contact for funeral services.

The FCA ageing population project found that 'one firm piloted a scheme to encourage consumers to take out Powers of Attorney by discounting arrangement fees for applicants that registered a Lasting Power of Attorney (LPA). This incentive structure may prompt customers to better plan ahead for potential life events or loss of capacity. It also reduced a risk for the lender by ensuring that arrangements were in place for a named person to take over if, in the future, a borrower lost mental capacity and was unable to manage their finances.'

Another firm set up a specialist referral service to support cancer sufferers. This includes offering financial assistance by waiving owned interest, fees and charges across all product lines and seeking to maximize customer access to products and services. The firm told the FCA that the service results in increased customer satisfaction during key life events. They have also noted additional benefits from increased employee engagement, positive reputation and reduced risk of compliance issues or consumer complaints.[49]

Financial Planning Standards Board (FSPB)

The FSPB asked respondents to identify the measure(s) that would most benefit seniors if introduced in their territory (note that respondents were permitted to select more than one option):

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[49] In the UK, the FCA specifically looked at how the needs of senior investors were considered in product and service design. The FCA found that products, services and processes were either created for a notional non-existent 'average customer' or designed around corporate rather than customer need. To help resolve this, firms could involve older or more vulnerable consumers in the product testing, design and development stages. Firms could also take the needs of older consumers into account when developing distribution channels. In addition, the FCA found that while not all processes can, or should, be built solely around the needs of one demographic.

- 60 percent encourage policies that support the delivery of financial advice to seniors under a client first/best interest duty
- 35 percent require understandable disclosures by advisors claiming expertise specific to seniors
- 34 percent encourage policies that establish requirements for advisors specializing in giving advice to seniors
- 29 percent approve bona fide designations for those specializing in giving advice to seniors
- 28 percent increase supervision and enforcement of advisors working with seniors

2. Provide training and support for employees of financial services firms

Recognizing when a senior investor may be suffering from an age related condition such as dementia is often very difficult because the signs may not be immediately apparent.

The responses from the FPSB indicated that many members would like (i.e. Certified Financial Planners) to improve communication with senior investors. Staff cannot be expected to be experts but when they do suspect that a senior investor may be suffering from an illness or age related condition they should be able to access specialist support and advice.

Illustrative Examples:

United Kingdom

The Ageing Population Project of the **UK Financial Conduct Authority** (UK FCA) highlighted examples of good practice in firms.[50] For example, one bank has created an internal learning tool to help employees better understand the needs of customers with specific issues or requirements, for example those in financial difficulty, older customers and their carers. Another firm trained their staff to manage disclosures effectively, such as encouraging them to listen and look out for clues and signs of agitation from the customer, which may be subtle. Training also involves role-playing emotionally difficult situations.

50 Ageing Population and Financial Services – Occasional Paper 31 published by the Financial Conduct Authority, September 2017, available at https://www.fca.org.uk/publication/occasional-papers/occasional-paper-31.pdf

A number of firms have developed partnerships with national organizations and charities that have expertise in dealing with age related illnesses, such as dementia. Firms may seek critical challenge from third sector partners when designing products or services to help identify particular access barriers or challenges that may arise for consumers with more special needs.

6. Conclusions and Next Steps

Today, ageing populations have an important impact on investor protection. In this context, IOSCO has sought to analyze the growing risks that senior investors face today and to identify sound practices for managing these risks.

IOSCO´s work focused on a) investment fraud targeted at senior investors and committed by an unregistered financial advisor or stranger; and b) registered financial advisors targeting senior investors for unsuitable investments. It reveals that seniors are at a greater risk than other investors of losing money to fraud or of being taken advantage of by others. It also confirms that the biggest risks to senior investors are likely to be unsuitable investments, financial fraud committed by a non-family member and diminished cognitive capability that affects their financial decision-making. Other notable risk factors are complex products, deficient financial literacy, and social isolation.

At present, many jurisdictions believe that existing regulation and general investor protection programs already address many of the risks to senior investors and, therefore, these investors do not require specific protection measures. Nevertheless, a few jurisdictions have started to alter their approach and in the course of its work IOSCO has detected a growing interest in senior investor protection strategies, indicating that jurisdictions worldwide are focusing more closely on the challenges facing elderly investors.

Changing demographics are impacting different regions in different ways and at different speeds. The importance and sense of urgency that jurisdictions give to the issues around senior investor vulnerability are, therefore, also defined by their local and cultural context.

IOSCO identified the following sound practices for both regulators and financial services providers regarding senior investors:

Sound practices for regulators:

1. Deliver educational programs and resources targeting senior investors.
2. Foster the development of senior-focused expertise within existing regulatory, educational or advisory programs.

3. Conduct research projects to better understand the risks and issues facing senior investors and the incidence and mechanics of investment fraud that affect seniors in their jurisdictions.
4. Develop guidelines and training programs for personnel reviewing transactions conducted with senior investors.

Sound practices for financial services providers:

1. Offer support to senior investors experiencing a life event during the product lifecycle.
2. Provide training and support for employees of financial services firms.

Next steps

The C8 Senior Investor Vulnerability working group plans to monitor progress in this space to keep IOSCO members abreast of relevant and important developments. To this end, the working group will conduct an analysis of the impact of this report after one year to determine if any of the jurisdictions has changed or is planning to change their approach to protecting seniors from inappropriate and fraudulent investments.

The working group is also considering creating an online toolkit or other resources to help jurisdictions take action based on the report.

Appendix A—Literature Review

Title	**Produced by**	**Summary**
Financial literacy, financial judgement and retirement self-efficacy of older trustees of self-managed superannuation funds	Earl JK, Gerrans P, Asher A, Woodside J, Australian Journal of Management, Vol 40 (3), 2015, pp 435-458.	The report investigates relationships between retirement self-efficacy, financial literacy and financial judgement across a sample of older trustees of self-managed superannuation funds (SMSFs), which are controlling significant assets.
Digital lives of older Australians	Australian Communications and Media Authority	Explores the levels of online engagement of Australians aged 65+ and examines various measures of digital engagement, including internet access, frequency and location of internet use, as well as the devices used to access the internet and the activities undertaken online; discusses differences in demographic profiles of older internet users and non-users.
The Demographic Facts of Ageing in Australia: Patterns of Growth	Hugo, G, APMRC Policy Brief Vol 2, No.2, University of Adelaide, March/April 2014	Highlights that the impact of ageing on the Australian economy needs to be offset by initiatives in Planning, Population, Participation and Productivity and that there is a need to commence change now to have benefits in the coming decades.
Discussions on Long-Term Financial Choice	Cheah KK, F Douglas Foster, Heaney R, Higgins T, Oliver B, O'Neill T and Russell R, 2015, Australian Journal of Management, vol.40:3, pp. 414-34	The analysis found that persons of all ages understand the importance of long-term savings, but face many challenges in preparing for retirement. Breaking large, complex retirement decisions into more manageable pieces (based on personal circumstances) and providing more focused and relevant information to investors would result in more effort and care expended on retirement decisions.
Spending patterns of older retirees: New ASFA Retirement Standard, September 2014	Association of Superannuation Funds of Australia	With an increasing number of Australians living into their 90s, the report highlights the need to anticipate, and plan for, changing expenditure patterns for older retirees.
Dementia across Australia 2011-2050	Report for Alzheimers Australia, prepared by Deloitte Access, 2011	This report predicts the number of people who will be living with dementia in Australia from 2012 until 2050.

The relationship between age and consumer fraud victimization	Australasian Consumer Fraud Taskforce	This paper examines the relationship between age and the risk of consumer fraud, using the results of online surveys conducted by the AIC on behalf of the Australasian Consumer Fraud Taskforce in 2011 and 2012. The surveys found statistically significant relationships between age and how invitations were received; age and frauds resulting in victimization; and age and those who sent money in response to invitations.
National Investment Fraud Vulnerability Report	British Columbia Securities Commission	The British Columbia Securities Commission (BCSC) set out to study investment fraud among the 50+ population. A key goal of the study was to assess Canadians' understanding of the relationship between risk and return. Having unrealistic expectations of market returns and not understanding the relationship between risk and reward may lead people to make the costly mistake of falling into investment fraud.
Financial elder abuse	Brunel University	Examination of decision-making by managers and professionals in health, social care, banking and asset management. Report focuses on providing better methodologies to detect and prevent financial abuse of older adults
Vulnerability	Financial Conduct Authority	Contains background information and definition of vulnerability
Changing face of retirement (2014)	Institute for Fiscal Studies	Projections of mortality, family composition, health, care receipt, care provision, labor supply and receipt of disability benefits for people aged 65 and over from 2010–11 through to 2022–23, as well as projections of their wealth and incomes, in order to offer commentary on the net income distribution and rates of poverty for those aged 65 and over through to the early 2020s.
The pinch: How the baby boomers took their children's future	Resolution Foundation	Contains some useful statistics on baby boomer generation
The vulnerable consumer of financial services	University of Nottingham	Early research on consumer vulnerability and how this impacts on interactions with financial services.

A Quantitative Analysis of Victims of Investment Crime	Financial Conduct Authority	This report presents the findings from the first phase of a project designed to help us proactively combat investment fraud. The aim of the project was threefold: To develop insight into the characteristics of victims of financial crime; to support the training and development needs of financial crime investigators; to develop proactive interventions (e.g. communication campaigns) delivered to specific groups/specific locations.
How does ageing affect financial decision-making	Center for Retirement Research at Boston College	The first section reviews the literature. The second section describes the dataset and the sample used in the study. The third section estimates the effect of declining cognition on three aspects of financial decision-making: financial literacy, confidence in the individuals' ability to make financial decisions, and responsibility for managing the individuals' finances. The final section concludes that declining cognition has a noticeable adverse effect on financial literacy, but not on individuals' confidence in managing their finances.
Recommendations and report for financial institutions on preventing and responding to elder financial exploitation	Consumer Financial Protection Bureau	Identified best practices to assist financial institutions with their efforts to prevent elder financial abuse and intervene effectively when it occurs which include: *Train management and staff to prevent, detect and respond, *Use technology to monitor for signs of elder financial exploitation, Report all cases of suspected exploitation to relevant authorities, Offer age-friendly services that can enhance protections against financial exploitation.
Advisory for financial institutions on preventing and responding to elder financial exploitation	Consumer Financial Protection Bureau	Links to recommendations and report for financial institutions on preventing and responding to elder financial exploitation

Cognitive, social, and neural determinants of diminished decision-making and financial exploitation risk in ageing and dementia: A review and new model	Laboratory of Brain and Cognition, Human Neuroscience Institute, Department of Human Development, Cornell University, Ithaca, New York, USA	Reports that changes in brain and in cognitive and social functioning, across the spectrum from normal to pathological ageing, can lead to decision- making impairments which increase abuse-risk in many life domains (e.g. health-care, social-engagement, financial management). Specifically focuses on emerging research identifying neural, cognitive and social markers of declining financial decision-making capacity in older adults. Also sets out early detection and new interventions to reduce exploitation risk.
Addressing Financial Exploitation Among People Living with Cognitive Impairment and Their Caregivers: Role of the Public Health and Ageing Services Networks	The Centres for Disease Control and Prevention	Highlights practical steps that can be taken through collaboration with appropriate partners such as elder law attorneys, financial professionals, and primary care professionals, public health and ageing services professionals in assisting those with cognitive impairment to avoid the potentially devastating impact of financial exploitation and abuse.
2015 report on Elder financial abuse	True Link Financial	Covers three areas of abuse: Caregiver abuse, Criminal fraud, Financial exploitation. Includes a survey of family caregivers for older Americans that includes 2,335 cumulative years of data on incidents of financial abuse.
Dodd-Frank's Protections for Senior Citizens: An Important, Yet Insufficient Step	University of Cincinnati	Describes the shape and scope of the problem that inspired the elder protection portions of the legislation, details what Dodd–Frank did to protect the elderly from financial peril, analyses the weaknesses of the steps Congress has taken, examines the potential pitfalls to be aware of when developing protections for seniors, and advocates for three additional steps that should be taken to adequately combat this problem.
Finances in the Older Patient with Cognitive Impairment	US National Library of Medicine	Role of clinicians in protecting patients who have become financially incapable due to dementia

Declining financial capacity in mild cognitive impairment: A 1-year longitudinal study.	US National Library of Medicine	Declining financial skills are detectable in patients with mild cognitive impairment (MCI) in the year before their conversion to Alzheimer disease. Clinicians should proactively monitor patients with MCI for declining financial skills and advise patients and families about appropriate interventions.
Heightened Emotional States Increase Susceptibility to Fraud in Older Adults	Stanford Center on Longevity, FINRA Foundation, AARP (2017)	Psychologists at Stanford University found that inducing emotions in older adults—whether positive (excitement) or negative (anger)—increased their intention to buy falsely advertised items, compared to young adults.
Scams, Schemes & Swindles: A Review of Consumer Financial Fraud Research	Stanford Center on Longevity, FINRA Foundation (2012)	This white paper outlines what we know (and what we have yet to learn) about consumer financial fraud – its prevalence, victims, perpetrators, and methods.
The Scope of the Problem: An Overview of Fraud Prevalence Measurement	Stanford Center on Longevity, FINRA Foundation (2013)	Without accurate and reliable estimates of fraud, it is difficult to understand what works or does not work to protect victims from harm. This report takes a closer look at the question of fraud prevalence. This report aims to reconcile the variability of financial fraud prevalence estimates, to explain why it is so difficult to obtain reliable and valid estimates, and to suggest ways to improve fraud prevalence measurement.
Neural and Behavioral Bases of Age Differences in Perceptions of Trust	Proceedings of the National Academy of Sciences 109(51).	Two studies, one behavioral and one using neuroimaging methodology, identified age differences in trust and their neural underpinnings. Older and younger adults rated faces high in trust cues similarly, but older adults perceived faces with cues to untrustworthiness to be significantly more trustworthy and approachable than younger adults. This age-related pattern was mirrored in neural activation to cues of trustworthiness.
The Causes and Consequences of Financial Fraud Among Older Americans	Boston Center for Retirement Research	Researchers use a unique dataset to examine the causes and consequences of financial fraud among older Americans. First, they find that decreasing cognition is associated with higher scam susceptibility scores and is

		predictive of fraud victimization. Second, overconfidence in one's financial knowledge is associated with fraud victimization. Third, fraud victims increase their willingness to take financial risks relative to propensity-matched non-victims.
Elder Abuse: The Extent of Abuse by Guardians Is Unknown, but Some Measures Are Being Taken to Help Protect Older Adults	U.S. Government Accountability Office	United States Government Accountability Office. Report to Congressional Requesters.
AARP Investment Fraud Vulnerability Study	AARP	Overall, significant differences were found between victims and the general investor population in a number of areas. Age, Gender, Marriage and Military Service – More victims were over age 70 (50 percent) compared to general investors (35 percent). More victims were male (81 percent) compared to general investors (42 percent), more victims were married (66 percent) compared to general investors (58 percent) and more victims were veterans (33 percent) compared to general investors (18 percent).
Protecting Senior Investors: Compliance, Supervisory and other Practices Used by Financial Services Firms in Serving Senior Investors	SEC, FINRA, NASAA	This Report summarizes practices used by financial services firms and securities professionals in serving senior investors in the following areas: Getting started: how firms are thinking of ways to remodel their supervisory and compliance structures to meet the changing needs of senior investors; Communicating effectively with senior investors; Training and educating firm employees on senior-specific issues (such as how to identify signs of diminished capacity and elder abuse); Establishing an internal process for escalating issues and taking next steps; Encouraging investors of all ages to prepare for the future; Advertising and marketing to senior investors; Obtaining information at account opening; Ensuring the appropriateness of investments; and Conducting senior-focused supervision, surveillance and compliance reviews.

A Guide for Developing Practices and Procedures for Protecting Seniors Investors and Vulnerable Adults from Financial Exploitation	North American Securities Administrators Association (NASAA)	This Guide highlights certain requirements and options available under existing state laws, NASAA's Model Act, and voluntary practices, coupled with suggestions on how firms should develop policies and procedures to mitigate potential damage caused by senior exploitation and issues related to cognitive decline or diminished capacity. The Guide is structured around five key concepts: 1) identifying vulnerable individuals; 2) governmental reporting; 3) third-party reporting; 4) delaying disbursements from client accounts; and 5) continuing regulatory cooperation following reports or disbursement delays.
Financial Fraud and Fraud Susceptibility in the United States	FINRA Foundation (2013)	This report contributes to a deeper understanding of financial fraud by gauging exposure and response to traditional and Internet-based scams, and the relationships between susceptibility to fraud and various demographics, including age.
AARP Foundation National Fraud Victim Survey	AARP	This is a nationwide survey to examine the demographic and behavioral differences between victims of various types of consumer fraud and the general population.
Senior Fraud Risk Survey	FINRA Foundation (2007)	Examined investors age 55 – 64 about behaviors that may put them at a higher risk of becoming a victim of investment fraud.
Senior Investor Literacy and Fraud Susceptibility Survey	FINRA Foundation (2006)	A Senior Investor Literacy and Fraud Susceptibility Survey of older investors (60 and older) found that 92 percent felt 'somewhat' or 'very' confident about managing their finances, and almost 80 percent described themselves as 'somewhat' or 'very' knowledgeable about investing. But fewer than half—only 44 percent—got a passing grade on a basic financial literacy knowledge test. The older the investor, the less likely he or she is to want to learn more.

Finances in Retirement: New Challenges, New Solutions	Merrill Lynch and Age Wave	Merrill Lynch/BOA and Age Wave partnered to study how the financial landscape of retirement in the US is changing, integrate the financial implications and challenges of each of the Life Priorities in retirement, and examine the choices and changes that people can make to become more financially secure in retirement.
Fighting Fraud: U.S. Senate Special Committee on Ageing: Top 10 Scams Targeting Our Nation's Seniors	U.S. Senate Special Committee on Ageing	U.S. Senate Committee on Ageing report on the top 10 frauds targeting seniors in the U.S. The guide is designed to inform and help protect seniors from some of the most pervasive and malicious scams and frauds.
Five-year all-cause mortality rates across five categories of substantiated elder abuse occurring in the community	Journal of Elder Abuse and Neglect	Elder abuse increases the likelihood of early mortality, but little is known regarding which types of abuse may be resulting in the greatest mortality risk. This study included N = 1,670 cases of substantiated elder abuse and estimated the 5-year all-cause mortality for five types of elder abuse (caregiver neglect, physical abuse, emotional abuse, financial exploitation, and polyvictimization). Statistically significant differences in 5-year mortality risks were found between abuse types and across gender. Caregiver neglect and financial exploitation had the lowest survival rates, underscoring the value of considering the long-term consequences associated with different forms of abuse.
Investing As We Age	Ontario Securities Commission	Research prepared for the Ontario Securities Commission based on a survey of the financial knowledge, attitudes, and behaviors towards retirement planning among Ontarians aged 45 and older. The research findings will be used to support the development of the OSC's Seniors Strategy.

Retirement Readiness: Canadians 50+	Ontario Securities Commission	Research prepared for the Ontario Securities Commission based on a survey of retirement readiness among Canadians over the age of 50. The research findings will be used to support the development of the OSC's Seniors Strategy.
The Legal Protection of Seniors against Financial Fraud & Exploitation. Prof. Raymonde Crête. (French)	Laval University, Québec City, Canada Granted by the AMF Quebec Education and Good Governance Fund.	Objectives : 1) document the various manifestations and the economic, social and legal implications of financial abuse of seniors; 2) assess the need for specific legal protection against the financial exploitation of seniors; 3) analyze and synthesize current Quebec and Canadian law concerning the legal protection of seniors against financial exploitation; 4) Critically evaluate the strengths and weaknesses of current Quebec and Canadian law in the light of a comparative analysis of French, British and American legislation as well as on the basis of relevant literature in complementary disciplines, such as economics, sociology, social services and psychology; 5) In the light of the strengths and weaknesses identified in current law, propose avenues of action to ensure effective legal protection of older adults against financial exploitation in terms of prevention, reparation and repression.

Appendix B—Full Summary of Survey Results

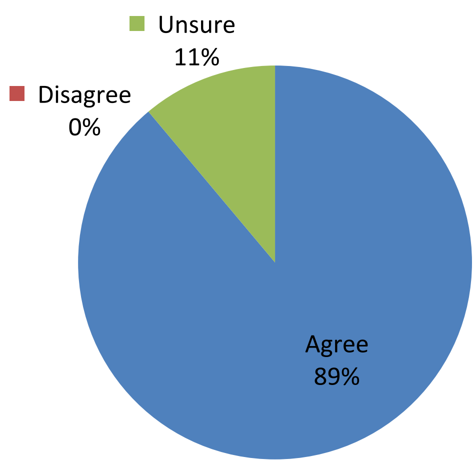
To assess the risks facing senior investors and to gain an understanding of whether and, if so, how organizations in different jurisdictions deploy strategies to address such risks, the working group surveyed C8 members as well as members of C3 and AMCC. This section summarizes the views and experiences regarding senior investor vulnerability as described by members of C8, C3, and AMCC.

I. Results from the Survey to C8 members

Senior investors are at a greater risk

As a threshold assessment, survey respondents were nearly unanimous in their responses when asked whether senior investors are at greater risk than other investors of losing money to fraud or of being taken advantage of by others. Twenty-five respondents agreed, while three respondents were unsure (Figure 1). None of the respondents disagreed with the statement.

Figure 1: Are seniors at a greater risk?



Several respondents provided additional statistical research to support this statement. For example, the US Financial Industry Regulatory Authority (FINRA) referred to a study conducted by psychologists at Stanford University which found that:

'Inducing high-arousal emotions (i.e., anger or excitement) in older adults (ages 65 to 85) made them more susceptible to misleading advertisements …. These results suggest that a state of high emotional arousal, regardless whether positive or negative, could have a broad influence on older adults' susceptibility to fraud.'[51]

[51] Kircanski, Notthoff, Shadel, Mottola, Carstensen, and Gotlib (2016). Emotional Arousal Increases Susceptibility to Fraud in Older Adults, Palo Alto, CA: Stanford Center on Longevity.

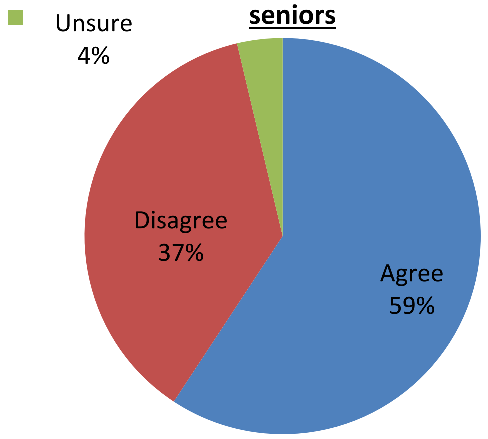
Several respondents cited research conducted within their jurisdiction that provided reasons or causes for this increased risk to senior investors. For example, the Australian Securities & Investments Commission (ASIC) stated:

'Research does highlight a relationship between ageing and vulnerability to financial exploitation and fraud and the impact of some scams.[52] *Other factors, including social isolation as a consequence of poor health, retirement, and loss of a spouse and friends,*[53] *have also been found to potentially increase vulnerability of seniors to financial exploitation.'*

A list of relevant research appears in Appendix A, along with a brief summary of each report.

Strategy or focus for addressing the needs of senior investors

Figure 2: Strategy or focus for addressing needs of seniors



Survey respondents were roughly evenly split, as depicted in Figure 2, when asked whether they agreed with a statement that their organization has a specific strategy or focus for addressing the needs of senior investors that is distinct from the organization's approach toward protecting vulnerable investors generally. Fifty-nine percent reported that they had a specific strategy or focus on seniors, thirty-seven percent said they did not, and four percent were unsure. Of those who disagreed with the statement, most commented that whilst they had strategies in place for vulnerable investors generally, senior investors fell into this category as a whole, and hence jurisdictions did not have special provisions specifically targeting investors over a certain age.

Most of the C8 members who have senior-focused strategies in place cited educational initiatives, such as SmartCheck in the US (US Commodity Futures Trading Commission, or CFTC)[54] and wikifin.be in Belgium (Financial Services and Markets Authority, or FSMA).[55]

52 See Targeting scams: Report of the ACCC on scams activity 2015, ACCC, May 2016, p. 9.

53 Kim, Eun-Jin, and Geistfeld (2008). What makes older adults vulnerable to exploitation or abuse*? The Forum for Family and Consumer Issues*, 13(1).

54 See https://smartcheck.cftc.gov/

55 See https://www.wikifin.be/

SmartCheck is a campaign that informs investors about tools that help them research the credentials of financial professionals, uncover any past disciplinary history, and stay ahead of scam artists with news and alerts. Wikifin.be is the FSMA's financial education program. At the Wikifin.be website you can find independent, reliable, and practical information on money matters. The website also contains quizzes, handy tips, and tools such as the savings account simulator, an inheritance simulator, and a housing simulator.

In addition, the UK FCA developed ScamSmart,[56] a public education campaign targeted particularly at senior investors. The campaign includes materials designed to resonate with potential victims to help them realize that they have been targeted by an illegal or fraudulent scheme. This support material may assist a firm in reassuring a vulnerable senior investor that the firm is acting in their best interests by steering the investor away from a potential scam.

The Ontario Securities Commission (OSC) also brings fraud awareness and prevention messages to seniors across Ontario through its OSC in the Community program, which provides senior investors with information about common red flags of fraud and how to report potential investing frauds to their provincial securities regulator. Others including AMF Quebec, FINRA, US SEC and the US Commodity Futures Trading Commission (US CFTC) engage in similar outreach.

As a complement to traditional investor education and outreach strategies, some jurisdictions have deployed alternative tactics to better understand and engage with senior investors. For example, in 2015, FINRA established a toll-free Securities Helpline for Seniors as a channel through which older investors or their representatives may obtain assistance from FINRA or raise concerns about issues with brokerage accounts and investments. Staffed by personnel with examinations experience, the strategy features both educational and regulatory elements.

In addition, ASIC, like other jurisdictions, engages in research to better understand the seniors' market. And the OSC created the Seniors Expert Advisory Committee (SEAC) to serve as a forum to discuss and address the needs of older investors. The SEAC advises OSC staff on securities-related policy and operational developments that impact older investors and provides input on the OSC's related education and outreach activities.

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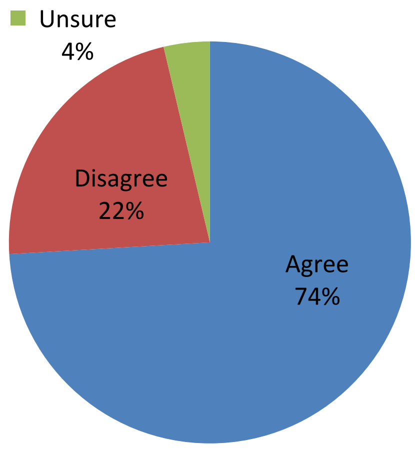
56 See http://scamsmart.fca.org.uk

Programs and policies to protect senior investors

Figure 3: Programs and policies to protect senior investors

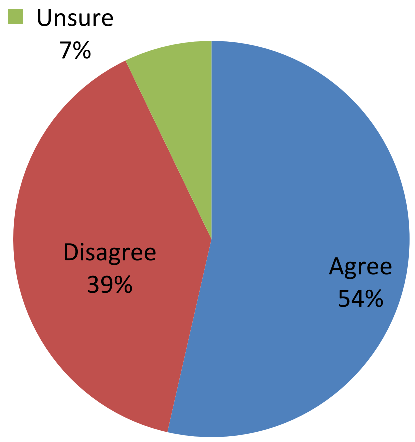


Significantly, as depicted in Figure 3, nearly three-quarters of survey respondents agreed with the following statement: 'My organization has programs and policies in place to protect senior investors.' Many of the respondents mentioned general policies to be adhered to by financial institutions that would in turn protect senior investors. For example, the Comisión Nacional del Mercado de Valores (CNMV), Spain stated:

> *'In case of the provision of portfolio management and investment advice, intermediaries should take into account the knowledge, experience, financial situation and risk profile of the investor'.*

Specific rules or guidance for dealing with senior investors

Figure 4: Specific rules or guidance for dealing with senior investors



When asked whether there were specific rules or guidance in place for financial services providers or intermediaries in their particular jurisdiction (Figure 4), there was a fairly balanced result with 15 respondents agreeing (54 percent), and 11 disagreeing with the statement (39 percent). Two respondents answered 'unsure'.

As an example, FINRA and US SEC staff issued a joint report[57] in April 2015 to help broker-dealers assess, craft, or refine their policies and procedures for investors as they prepare for and enter into retirement. The report highlights regulatory and industry trends pertaining to seniors, and includes observations and practices identified by the two regulators during a series of regulatory examinations that focused on how firms conduct business with senior investors. Topics covered include the types of securities purchased by senior investors, the suitability of recommended investments, training of brokerage firm representatives, marketing,

57 National Senior Investor Initiative. A Coordinated Series of Examinations. Written by the SEC's Office of Compliance Inspections and Examinations and FINRA. http://www.finra.org/sites/default/files/SEC%20National%20Senior%20Investor%20Initiative.pdf.

communications, use of designations such as "senior specialist," account documentation, disclosures, customer complaints and supervision. In addition, the report lists in an appendix an array of relevant laws, rules and industry guidance.

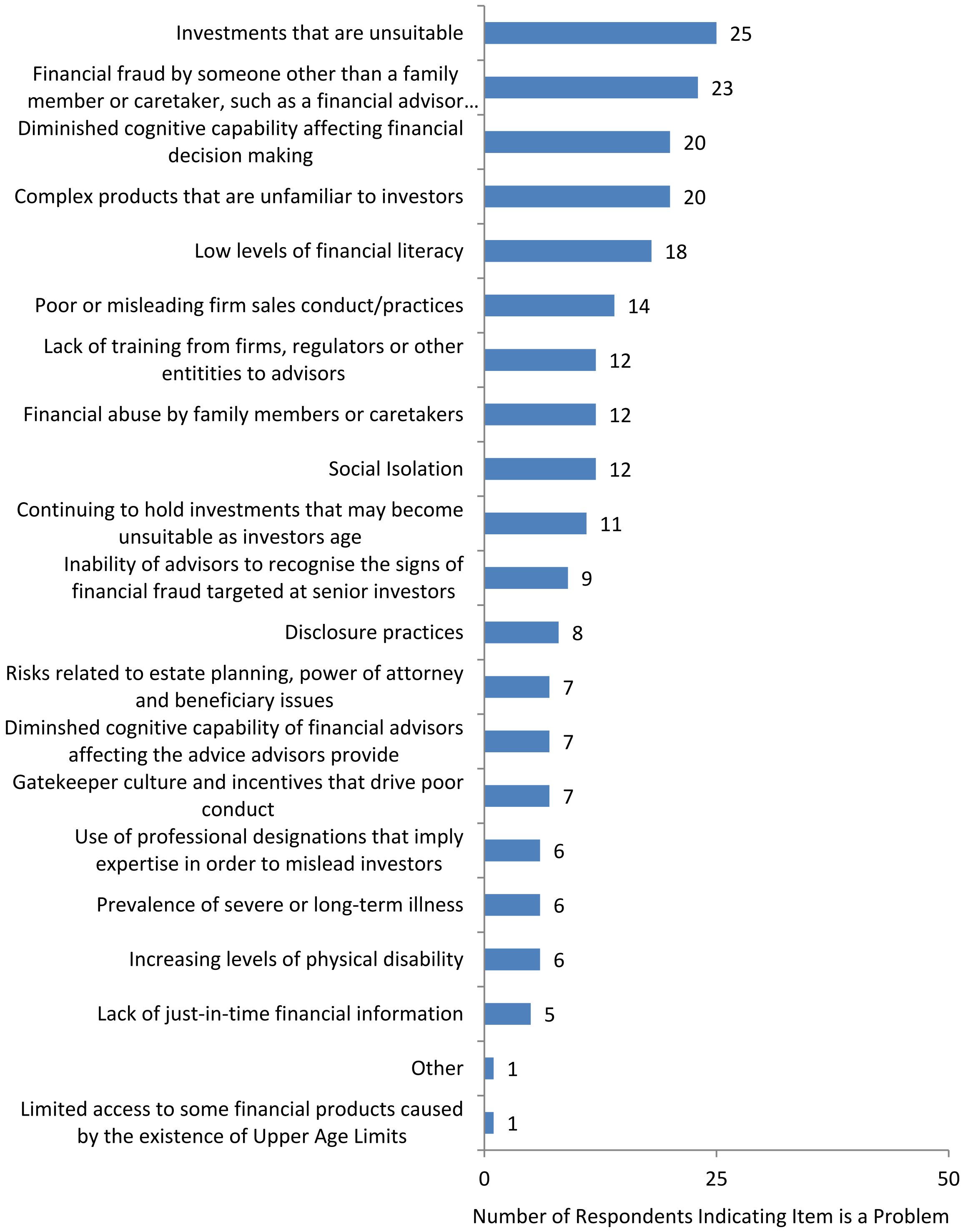
Risks to investment-related decisions faced by senior investors

The respondents were also asked to indicate what risks to investment-related decisions senior investors faced. Figure 5 shows the results, which included a prepopulated list of potential risks. As can clearly be seen, two key risks were perceived by nearly all respondents as a risk for seniors when making investment-related financial decisions: *unsuitable investments* and *financial fraud by someone other than a family member or caretaker, such as a financial advisor or stranger*. Other key concerns and risks for senior investors noted by the respondents were *diminished cognitive capability affecting financial decision-making* and *complex products that are unfamiliar to investors*.

At the other end of the scale, only one respondent believed that limited access to some financial products caused by the existence of upper age limits within product provision criteria was a risk to senior investors. The UK Financial Conduct Authority (FCA) was the one respondent believing this was a key risk, commenting that this is a particular issue in regards to mortgages within the UK.

Other issues not seen as particular risks to senior investors are a lack of just-in-time financial information, which was commented on by some members as being a general risk to all investors as opposed to senior investors specifically. The FCA commented how the advancement of technology coupled with the generally lower capability of senior investors in using modern technology means that senior investors may be naturally impeded from using some advisory services.

Figure 5: Risks to investment related decisions faced by senior investors

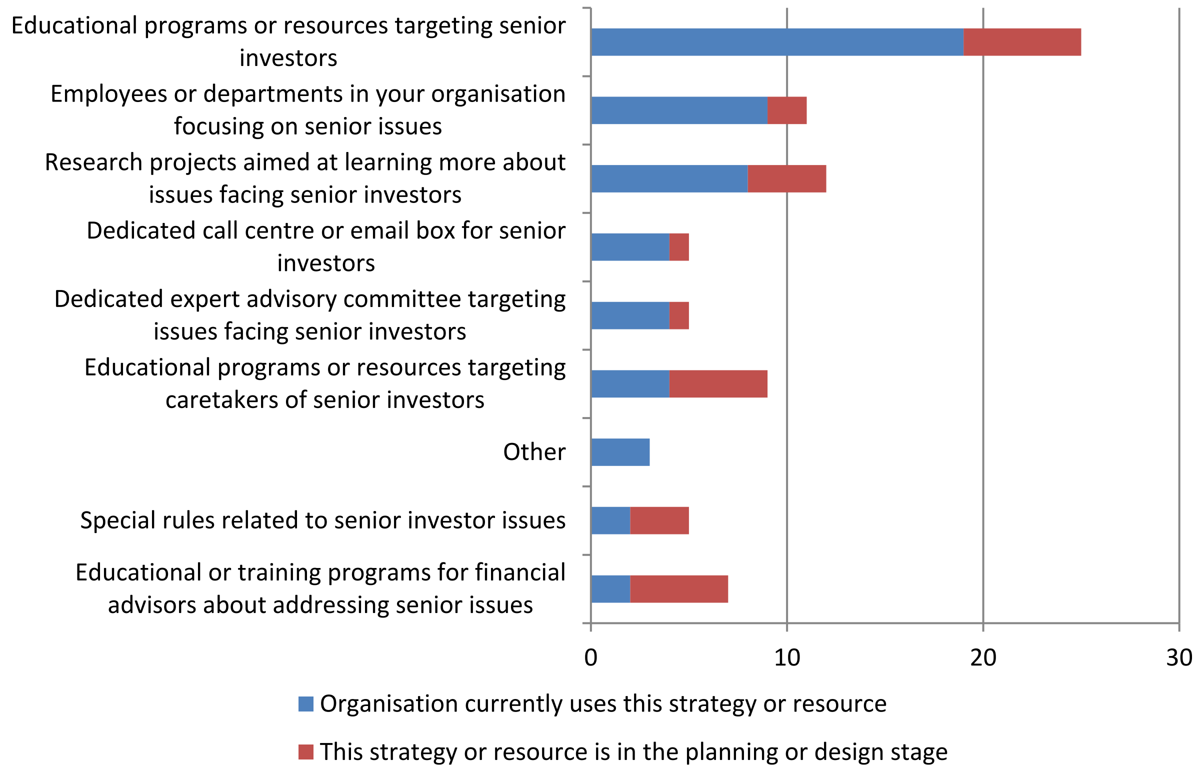


Note: Some questions shortened for presentation purposes. See Appendix C for actual question wording.

Strategies or resources used to protect senior investors

When asked to provide details of specific strategies or resources which their particular organization uses to protect senior investors, the strategy most commonly in place and in development by different organizations, as is evident in Figure 6, is the use of educational programs or resources targeting senior investors. Figure 6 also demonstrates how survey respondents rely on educational programs much more significantly than any other strategies or resources.

Figure 6: Strategies or resources used to protect senior investors



Note: Some questions shortened for presentation purposes. See Appendix C for actual question wording.

Eight respondents reported having research projects underway to learn about issues facing senior investors, with a further four organizations reported planning for this type of research. Additionally, nine respondents said that they currently have employees or departments focusing on senior investor issues.

Only two respondents reported having educational or training programs in place for financial advisors on addressing senior investor related issues, and only two respondents reported having special rules related to senior investor issues. However, seven stated that such measures are planned or in development. Overall, the survey revealed a growth trend in senior investor protection strategies, demonstrating an increased focus on issues of ageing across jurisdictions worldwide.

II. Results from the Survey to C3 and AMCC Members

Six members of C3 and four AMCC members responded to the companion survey, which was intended to identify examples of risks related to senior investor vulnerability and current practices in place to address such issues. What follows is a high-level summary of the responses. However, since we only have data from 10 entities the findings should be interpreted cautiously.[58]

With regard to risks, respondents largely expressed that senior investors typically face the same risks as most other investors, and most issues pertaining to seniors could also be shared by investors from other demographics, including matters of suitability and client due diligence.

While respondents did not have sufficient data to demonstrate that senior investors are at greater risk than other investors of losing money to fraud or being financially exploited, many anecdotally believed that senior investors may be at greater risk of investing in unsuitable products as their life circumstances change with age and the shift toward retirement. Some respondents also pointed to the move toward online communication and digital disclosure as an additional area of risk for senior investors, particularly for those that may be less technologically proficient or unaccustomed to receiving information in a digital format.

When asked about any laws, rules, regulatory guidance, or other programs in place to protect senior investors, the majority of respondents indicated that they had no such programs in place. These respondents instead rely on existing practices to manage suitability and risk issues—which apply to all investors regardless of age or perceived vulnerability—to address issues affecting senior investors. One jurisdiction acknowledged the need to assess risks related to ageing, mainly those rooted on cognitive capabilities.

FINRA and US SEC staff noted in a joint response to the C3 survey that the SEC had approved: (1) the adoption of new FINRA Rule 2165 (Financial Exploitation of Specified Adults) to

58 The German Federal Financial Supervisory Authority (BaFin) and the Ontario Securities Commission (OSC) responded to both the Survey to C8 members as well as the Survey to C3 members.

permit members to place temporary holds on disbursements of funds or securities from the accounts of specified customers where there is a reasonable belief of financial exploitation of these customers; and (2) amendments to FINRA Rule 4512 (Customer Account Information) to require members to make reasonable efforts to obtain the name of and contact information for a trusted contact person for a customer's account.[59] Both of these provisions aimed to address financial exploitation of senior investors.

In addition, in April 2017, FINRA announced that the National Adjudicatory Council (NAC) revised FINRA's *Sanction Guidelines* to include a new principal consideration titled "Consideration for Vulnerable Customers." The NAC is FINRA's appellate tribunal for disciplinary cases and is a 15-member committee composed of industry and non-industry members. The new principal consideration reaffirms that financial exploitation of senior and other vulnerable customers should result in strong sanctions. While FINRA's decisions have acknowledged that exercising undue influence is an aggravating circumstance on a case-by-case basis, the new principal consideration makes clear that the Sanction Guidelines contemplate coverage for vulnerable individuals or individuals with diminished capacity, which may include senior investors.[60]

One AMCC member, the Financial Planning Standards Board (FPSB), conducted a follow-on survey among Certified Financial Planner professionals worldwide. Their survey included C8's original questions plus some additional questions to gain further insight into senior investor vulnerability issues. The survey garnered over 2,600 respondents from 12 territories—including Australia, Canada, Hong Kong, Indonesia, Malaysia, Namibia, The Netherlands, New Zealand, Singapore, South Africa, Turkey, and the United States. The FPSB found that the majority of respondents perceived seniors to be at greater risk of losing money compared with the average investor due to unscrupulous practices (e.g., blind trust of advisors or family members, aggressive sales tactics, lack of technical and financial education). Some of the respondents also noted that seniors are particularly vulnerable because of the shortened time horizon in investing which may lead to product selection which is not in line with their needs or individual risk appetite. However, the FPSB also noted that non-senior investors may also

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59 See FINRA, Regulatory Notice 17-11 (Mar. 30, 2017), describing the scope and publishing the text of the new and amended rules. New Rule 2165 and the amendments to Rule 4512 become effective February 5, 2018.

60 http://www.finra.org/newsroom/2017/national-adjudicatory-council-introduces-new-sanction-guidelines.

face the same issues, especially those with failing or limited cognitive capabilities. That said, half of the respondents planned to take extra steps when dealing with senior investors, such as changing the way they communicate with seniors to better facilitate understanding.

Appendix C—C8 Survey

Survey of C8 Members: Senior Investor Vulnerability

Please answer the following questions about your organization's views and experiences with respect to the risks facing senior investors and strategies for addressing these risks. In addition, space is provided for comments so that you can elaborate on your responses if you so choose. For additional information regarding the survey, contact Gerri Walsh at Gerri.Walsh@Finra.org.

Organization Name

Primary Survey Contact

Email Address

1. **Do you agree or disagree with the following statement. 'Senior investors are at greater risk than other investors of losing money to fraud or of being taken advantage of by others (*e.g.,* unsuitable investments, excessive or unwarranted commissions, mark-ups, fees, or charges).' (Only check one box.)**

☐ Agree

☐ Disagree

☐ Unsure

Comments:

2. **Do you agree or disagree with the following statement. 'My organization has a specific strategy or focus for addressing the needs of senior investors that is distinct from our approach toward protecting vulnerable investors generally.' (Only check one box.)**

☐ Agree

☐ Disagree

☐ Unsure

If you answered Agree, briefly describe how senior investors are treated differently from non-senior investors.

3. **Do you agree or disagree with the following statement. 'My organization has programs and policies in place to protect senior investors.' (Only check one box.)**

☐ Agree

☐ Disagree

☐ Unsure

If you answered Agree, please provide a brief summary of what programs and policies your organization has for seniors.

4. **Do you agree or disagree with the following statement. 'Financial service providers or intermediaries in your jurisdiction have specific rules or guidance for dealing with seniors.' (Only check one box.)**

☐ Agree

☐ Disagree

☐ Unsure

If you answered Agree, please explain.

5. In your organization's experience, what are the risks to investment-related financial decisions that seniors face?

Financial literacy
☐ Low levels of financial literacy

Physical, mental, social and health issues
☐ Social isolation

☐ Diminished cognitive capacity affecting financial decision making

☐ Increasing levels of physical disability

☐ Prevalence of severe or long-term illness

Elder financial abuse
☐ Financial abuse by family members or caretakers

☐ Financial fraud by someone other than a family member or caretaker, such as a financial advisor or stranger

☐ Risks related to estate planning, power of attorney and beneficiary issues

Access to, and quality of, financial advice
☐ Diminished cognitive capacity of financial advisors affecting the advice advisors provide

☐ Inability of advisors to recognize the signs of financial fraud targeted at senior investors

☐ Lack of training from firms, regulators or other entities to advisors on how to work with senior investors

☐ Lack of just-in-time financial information

Professional conduct / product-related issues
☐ Gatekeeper culture and incentives that drive poor conduct

☐ Investments that are unsuitable

☐ Disclosure practices

☐ Complex products that are unfamiliar to investors

☐ Continuing to hold investments that may become unsuitable as investors age and their circumstances change

☐ Limited access to some financial products caused by the existence of Upper Age Limits within product provision criteria

☐ Poor or misleading firm sales conduct/practices

☐ Use of professional designations that imply expertise in order to mislead investors

☐ Other (briefly describe)

If you checked more than three boxes, please list the three greatest risks you feel investors face.

6. **The following questions assess your organization's use of specific strategies or resources to protect senior investors. Please indicate which strategies or resources your organization offers or uses by placing an 'X' in the columns labeled Yes or No. In addition, in the last column, please indicate if the strategy or resource is in the planning or design stage.**

Strategies or resources to assist senior investors	**Does your organization currently use these strategies or resources? (Check either Yes or No)**		**This strategy or resource is in the planning or design stage.**
	Yes	*No*	
Dedicated call center or email box for senior investors	☐	☐	☐
Educational programs or resources targeting senior investors	☐	☐	☐
Employees or departments in your organization focusing on senior investor issues	☐	☐	☐
Research project(s) aimed at learning more about issues facing senior investors	☐	☐	☐
Educational programs or resources targeting caretakers of senior investors	☐	☐	☐
Educational or training programs for financial advisors about addressing senior investor-related issues	☐	☐	☐
Special rules related to senior investor issues	☐	☐	☐
Dedicated expert advisory committee targeting issues facing senior investors	☐	☐	☐
Other (briefly describe below)	☐	☐	☐
If your organization is currently using one or more of these strategies or resources, please detail how your organization uses them and, if possible, provide some figures and details to assess their efficiency and effectiveness.			

7. **Are there any policies or programs not captured in this survey that your organization is currently (or considering) using to protect senior investors? If so, please briefly describe.**

Appendix D—C3 and AMCC Senior Investor Vulnerability Questions

Risk Question

To what extent do intermediaries in your jurisdiction feel senior investors are at greater risk than other investors of losing money to fraud or of being taken advantage of by others (e.g., unsuitable investments, excessive or unwarranted commissions, mark-ups, fees, or charges)?
Are you seeing emerging risks which may affect senior investors in your jurisdiction?
Please explain and provide details.

Regulatory Practice Question

Does your jurisdiction have laws or rules, regulatory guidance or other programs or policies in place to protect senior investors? If so, please explain and provide details.

Industry Practices

Do intermediaries in your jurisdiction have programs or policies for dealing with senior investors?
Are you aware of any emerging technology which is being used to help meet the challenges of an ageing population?
Do you see advances in technology as a help or a hindrance to older consumers in your jurisdiction?
If yes, please explain and provide examples.

Other information

Is there anything else that you would like to add on Senior Investor vulnerability?

PLEASE RETURN THIS SURVEY TO jed.hodgson@fca.org.uk **by 30 May 2017.**

We appreciate your help with this project.

IOSCO Committee 8 Working Group on Senior Investor Vulnerability.

Appendix E—Survey Participants

Members of Committee 8 on Retail Investors (C8)

Argentina – National Securities Commission (NSC)

Australia – Australian Securities and Investments Commission (ASIC)

Belgium – Financial Services and Markets Authority (Belgium FSMA)

Brazil – Comissão de Valores Mobiliários (CVM)

China – China Securities Regulatory Commission (CSRC)

France – Autorité des marchés financiers (AMF France)

Germany – BaFin (Germany BaFin)

Hong Kong – Investor Education Centre (Hong Kong IEC)

Japan – Financial Services Agency (FSA)

Japan Securities Dealers Association (JSDA)

Jersey – Jersey Financial Services Commission (FSC)

Korea – Financial Services Commission/Financial Supervisory Service (FSC/FSS)*

Malaysia – Securities Commission (Malaysia SC)

Mexico – Comisión Nacional Bancaria y de Valores (CNBV)

Netherlands – Authority for the Financial Markets (Netherlands AFM)

Nigeria – Securities and Exchange Commission (Nigeria SEC)

Ontario, Canada – Ontario Securities Commission (OSC)

Portugal – Comissão do Mercado de Valores Mobiliários (CMVM)

Quebec, Canada – Autorité des marchés financiers (AMF Quebec)

Russia – Bank of Russia

Singapore – Monetary Authority of Singapore (MAS)

South Africa – Financial Services Board (FSB)

Spain – Comisión Nacional del Mercado de Valores (CNMV)

Sweden – Finansinspektionen (FI)

Turkey – Capital Markets Board of Turkey (CMB)

United Kingdom Financial Conduct Authority (UK FCA)

United States Commodity Futures Trading Commission (US CFTC)

United States Financial Industry Regulatory Authority (US FINRA)

United States Securities and Exchange Commission (US SEC)

** Submitted input in writing, did not respond to the survey*

C3 Members

Germany – BaFin (Germany BaFin)

Ontario, Canada – Ontario Securities Commission (OSC)

Quebec, Canada – Autorité des marchés financiers (AMF Quebec)

Pakistan – Securities and Exchange Commission (SEC Pakistan)

US FINRA and US SEC (providing a joint addendum to each organization's prior response)

AMCC Members

Autorregulador del Mercado de Valores – Colombia

Financial Planning Standards Board (FPSB)

National Futures Association (NFA)

Taiwan Stock Exchange – Chinese Taipei