Today's Challenges for Servicing Aging Clients

By Michelle L. Jacko, CSCP

I. Introduction

As people's awareness of how to live a healthier lifestyle continues to grow and our health care improves, our older population in the United Stated (*i.e.,* persons 65 years of age or older) has dramatically increased. According to the U.S. Department of Health and Human Services, in 2013 one in seven Americans (or 14.1% of the U.S. population) was over age 65. By 2040, that number is forecasted to grow to 21.7%.

The baby boomers (that generation consisting of people born between mid-1946 and mid-1964) began turning 65 in 2011. By 2031, the surviving baby boomers will be turning 85. This surge in an aging population brings many challenges to service providers within the financial industry.

As investment advisers, you have a fiduciary duty to do what is in the client's best interest at all times. For broker-dealers, you have suitability obligations for making sound investments and taking into account the differing financial needs of elderly clients. This means the financial industry has an obligation to understand the aging process to be able to service that segment of your client bases.

This article will discuss various considerations for dealing with aging clients from a compliance, operational and practical perspective, including steps that should be taken for protecting aging investors and your firm. Through a case study, we will evaluate different scenarios that you may face and offer practical tips on how to address them.

II. Case Study: Identifying When an Aging Client Needs Additional Attention and Care

The following case study is a hypothetical scenario based on actual experiences which financial advisors have experienced with aging clients.

Jessica Jones has been a long-term client of Bill Kompton, an investment adviser representative of Kompton Wealth Management and registered representative of Pines Financial Corp. Jessica is an affluent client with a net worth exceeding $10 million. Bill has known Jessica approximately 25-years.

Jessica has one daughter, to whom she has not spoken in over 15-years. While her health historically has been stable, Jessica is starting to have difficulty walking and her vision is declining. Her beloved husband passed away approximately 10 years ago. Currently, she lives by herself.

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Approximately one-year ago, Jessica asked Bill to join her for dinner to celebrate her 75th birthday. At this dinner, Jessica introduced Bill to her new gentleman companion, Jason, who is 30-years Jessica's junior. Jason is a nighttime janitor.

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Jessica meets with Bill on a semi-annual basis to review her portfolios. He last met with Jessica in January and was surprised to see Jason present at this meeting. Jason asked many poignant questions, which Jessica authorized Bill to respond. At their next meeting in July, Jessica starts asking Bill lots of questions about her investments and it appears that she is having some difficulty in comprehending her portfolio statement. Jessica then asks Bill about investing in a new biotech drug, which she learned about through Jason. Through their discussion, Bill learned that Jason has a friend who works at a biotech drug company, which is in the experimental phase of testing a new drug that could treat amyotrophic lateral sclerosis ("ALS") a progressive neurodegenerative disease, which took the life of Jessica's late husband. Jason is encouraging Jessica to invest $3 million into the company's private fund offering. Skeptically, Bill agrees to review any fund offering documents that Jessica can deliver to him. He also warns Jessica that investing in an illiquid security may not be suitable for her current income needs and is contrary to her current investment goals and risk tolerance as reflected on her client profile. When asked whether anything in her life has changed, Jessica replies, "no – except Jason and I are becoming close."

After not hearing from Jessica, two weeks later, Bill calls Jessica to request the fund documents. Jessica sounds disoriented and confused, as if they had never discussed the biotech investment opportunity. Bill decides to visit Jessica at her home. There, he discovers that Jessica is disheveled as if she has not bathed in days. There is a stack of unpaid bills in the foyer. When Bill asks Jessica about the bills and whether she requires any assistance, Jason suddenly appears. He is very defensive, responds on Jessica's behalf and asks Bill to leave.

Concerned, Bill returns to his office and looks at Jessica's account. He discovers that last week Jessica had liquidated three of her large fixed income positions totaling $400,000, with no explanation and no notification to Bill. The next day Bill decides to contact Jessica's CPA to see if he had noticed any peculiar behavior from Jessica. Bill is very surprised to learn that Jessica fired the CPA two months ago after Jessica had illogically questioned her income tax return and, for no founded reason, accused the CPA of "taking her money."

Not wanting not to jump to conclusions, Bill returns to his office and starts reflecting on his visits with Jessica over the past year and a half. Looking at his CRM notes, he discovers that at the birthday dinner, Jessica had been confused and asked many questions about her account; Bill simply thought she was tired, but nevertheless, noted her questions. At his office, Jessica had inquired about an aggressive illiquid investment opportunity, which she was never interested in doing before. She recently liquidated a large sum of money without telling Bill, which was atypical behavior. And when Bill came to Jessica's home, he recalls seeing a brand new Mercedes AMG G65 SUV in the driveway, which certainly is not Jessica's style and likely not the type of vehicle Jason could afford. Reflecting on this, Bill now realizes that over time, Jessica has started to show gradual shifts and signs of aging and perhaps the onset of diminished capacity. There also is the possibility of elder abuse and undue influence by Jason. Bill meets with his Legal/Compliance team to discuss what he should do.

III. Common Concerns for Aging Clients

Does the Client Have Diminished Capacity?

What is Diminished Capacity?

Diminished capacity is a mental or cognitive condition that affects a person's ability to understand his or her own actions or decisions. While it is normal that through the aging process it will take clients longer to store or retrieve information mentally, it will not necessarily impair intellectual functioning.

One of the most common forms of diminished capacity in aging adults is dementia (now commonly referred to as a major neurocognitive disorder). Dementia describes a set of symptoms that may include memory loss and difficulties with thinking, problem-solving or language. Unlike a minor neurocognitive disorder, dementia affect's a person's daily life and behaviors. A person afflicted with dementia often experiences memory loss, confusion, emotional disturbances (such as depression, anxiety and paranoia), changes in personality and loss of visual-spatial and language skills. Often, brain damage caused by strokes or illnesses such as Alzheimer's disease cause dementia.

Alzheimer's Disease: The Most Common Form of Dementia (1 in 9 Americans over 65)

- 5.3 million Americans have Alzheimer's Disease
- Diagnosed among 20% of American adults over age 70 and 33% of American adults over age 85
- 6th Leading Cause of Death in America*
- Slow, progressive, irreversible course
- Symptoms affect learning, behavior and emotion

All data as of 2016; *Sources:* Alzheimer's Association at http://www.alzheimers.net/resources/alzheimers-statistics/; *Centers for Disease Control at http://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm.

Common Signs of a Cognitive Decline

Every person is unique and can experience cognitive decline differently. A person suffering from early stages of Alzheimer's disease, for example, typically exhibits cognitive difficulties with thinking and memory which includes problems with:

- Mild disorientation (such as not knowing the date);
- Judging distances;
- Following a conversation;
- Making decisions or performing tasks (such as paying bills); and
- Recalling events.

Other noticeable changes include mood changes, suspiciousness, denial, poor judgment and loss of initiative.

Mid-stage symptoms often include disorientation (such as not knowing where they are), restlessness and wandering, profound memory loss, hallucinations and language difficulty. In late stages, a person suffering from Alzheimer's disease may not be able to speak, recognize family members or even control bodily functions. Worse yet, there is no cure for this disease.

Potential Intervention

Financial professionals often ask, "do we have a duty to intervene if we recognize a cognitive decline?" While it will be up to each firm to determine the kind of intervention that may or may not be appropriate, from a client servicing perspective, it is likely that financial professionals will be asked for guidance – from the client, from the client's family members or from others that serve as an agent on behalf of the client. With this in mind, the following information is provided.

There is a variety of ways that a trusted individual can intervene to assist those who have a cognitive decline. Some of the most common interventions include the following:

a. **Enact a Healthcare Proxy:** A healthcare proxy is a document (legal instrument) with which an individual appoints an agent to legally make healthcare decisions on the individual's behalf when he or she is incapable of making and executing the healthcare decisions stipulated in the proxy. Once the health care proxy is effective, the individual continues making healthcare decisions as long as he or she is legally competent to decide. Importantly, in legal-administrative functions, the healthcare proxy is a legal instrument akin to a "springing" healthcare power of attorney.

b. **Engage an Attorney or Care Management Team:** An attorney can assist with drafting an individual's Advanced Care Directive to reflect care choices and preferences, which would be triggered if that person is unable to make decisions due to cognitive disorders. A Care Management Team can be engaged to coordinate the many facets of medical and other care required to assist a patient's quality of life in his/her day-to-day living. This includes creating a safe environment, promoting social interaction and enhancing moods and cognitive abilities.

c. **Have a Competency Evaluation:** Whether a person is competent and has capacity to understand the nature of his or her acts can be evaluated through a functional assessment. This evaluation, conducted by a healthcare professional, uses information derived from interviews with the client and others in combination with observed behaviors to pinpoint areas of cognitive impairment. This evaluation helps to determine whether a client is impaired and in need of additional clinical evaluation and medical attention.

d. **Seek an Assisted Living Facility:** There are various forms of assisted living facilities that can assist aging clients. Based upon the individual's unique needs and budgetary constraints, assisted living offers a safe, comfortable housing alternative with care from specially trained staff. For more information, contact local care facilities that specialize in caring for seniors with Alzheimer's disease and dementia.

Recognizing Elder Abuse and Exploitation

What is Elder Abuse?

Elder abuse is an intentional act, or failure to act, by a person in a position of trust, that creates a risk of harm to an aging adult. From a financial perspective, exploitation occurs when there is unauthorized, illegal or improper use of an aging adult's resources by a person in a position of trust.

Unfortunately, as cognitive functions start to decline, there exists a greater likelihood that an aging adult could be taken advantage of more easily. Common signs of elder abuse and exploitation include:

- Physical or emotional abuse;
- Neglect; and
- Blocked access to belongings or assets (such as through misappropriation or improper use of power of attorney).

Typically coupled with this are the following:

- Changes in the aging adult's regular habits;
- Previously uninvolved relative, caregiver or friend speaks for or makes decisions on behalf of the aging adult;
- A "new friend" appears;
- The aging adult becomes isolated from family and professional advisors; and
- Erratic behaviors are exhibited, such as:
  - Unpaid bills and changes in spending habits;
  - Unexplained change in professional advisors (such as CPA, doctor, attorney and financial advisor);
  - Unexplained asset transfers; and
  - Atypical cash withdrawals/wire transfers.

Potential Interventions

There are many ways trusted individuals can intervene to help stop the abuse of elder adults. First, suggest to the trusted individuals and care givers that the individual be evaluated by a professional for signs of abuse. The professional will look at physical and behavioral warning signs, as well as for signs of financial abuse. If abuse is detected, reach out to local Adult Protective Services. Among other things, Adult Protective Services will investigate reports of abuse, neglect and exploitation of older adults, and intervene, as necessary, to protect the victim. If appropriate, consider whether elderly abuse should be reported to law enforcement authorities. Notably, the reporting person is protected from both criminal and civil liability.

Case Study Revisited

In our case study, Bill did the right thing by going to his legal/compliance department for guidance. He recognized that Jessica exhibited signs of diminished capacity and potential elder exploitation, but was unclear on what to do next. Importantly, he had not made any new portfolio recommendations since his last meeting with Jessica and legal/compliance instructed him not to make any new recommendations or portfolio changes until they met to discuss the facts and circumstances surrounding his concerns about his aging client.

In preparation for the meeting, Bill was asked to forward to the legal/compliance department all information related to the client account includ-

90% of Elder Abusers are Family Members; Less Than 20% Get Reported

Source: The National Adult Protective Services Resource Center available at http://www.ccerap.org/images/stories/documents/adult-protective-services/Elder%20Abuse%20Stats%20-%20WEAAD.pdf.

ing, but not limited to, any powers of attorney, emergency contact or other fiduciary named on behalf of Jessica's accounts. In the absence of such information, Bill was to identify any key contacts – names of dependents, relatives or close friends – and to the extent available, their contact information. Furthermore, the compliance officer asked Bill to document (to the extent he has not already done so) what signs he has witnessed which led him to be concerned about this aging client.

Bill gathers all requested information, supplements his client meeting notes and forwards all information for the legal/compliance department's review. Bill is sure to include his notes as to when he first witnessed Jessica's changing behaviors, which went back to her 75th birthday. He expresses concerns that he had with Jason, and his apparent "undue influence" at the January meeting and in Jessica's home. He also notes the erratic financial actions Jessica took, such as liquidating substantial positions without Bill's input, inquiring about a potential alternative investment (an investment product with which she has no previous experience), and firing her long-term CPA.

Next, Bill flags within his portfolio management system a notification to not trade Jessica's account until otherwise instructed by legal/compliance. He turns to the firm's compliance policies and procedures manual for guidance on the protocols he should follow for dealing with aging clients. From that, he learns that he should be careful not to carry out client-requested transactions that are potentially detrimental to an aging client. Finally, he follows-up with and awaits the legal/compliance department's guidance on whether he should approach Jessica and her emergency contact to evaluate and assist, as needed, on whether she should seek medical evaluations to check for potential health issues that could impair her abilities and/or protection against potential financial exploitation by Jason, who appears to be manipulating Jessica.

In preparation for this meeting, legal/compliance considers the following regulatory guidance.

IV. Regulatory Expectations for Dealing with Aging Clients

In 2016, SEC registrants and FINRA member firms were put on notice that the regulatory bodies are examining how financial firms are addressing aging client issues.[9] There have been numerous regulatory releases in recent years, as well as proposed rules, providing valuable insight into regulatory expectations for protecting aging clients.

> In 2008, the SEC, FINRA and NASAA collaborated on a report called "Protecting Senior Investors: Compliance, Supervisory and Other Practices Used by Financial Services Firms in Serving Senior Investors,"[10] which summarized practices shared by financial advisors, firms and industry groups and outlined key practices relevant to diminished capacity. While not an enforceable regulation, such governing bodies often cite this report when examining registered firms' senior investor policies.

Regulatory Guidance

National Senior Investor Initiative (Apr. 15, 2015)[11]

As part of a collaborative effort, the SEC's Office of Compliance Inspections and Examinations ("OCIE") and FINRA performed examinations on forty-four (44) broker-dealer firms focusing on, among other things, the types of securities purchased by senior investors, suitability of recommended investments and training of brokerage firm representatives. The resulting report summarizes the findings and is intended to help broker-dealers "assess, craft, or refine their policies and procedures"[12] for elderly clients entering retirement. Of note, the report found that only thirteen percent (13%) of examined firms had escalation procedures dealing with diminished capacity and only thirty percent (30%) had suitability guidelines tailored specifically toward senior investors. While the report concluded overall that firms seemed to be paying increased attention to elderly client issues, it also provided several "Notable Practices" on how firms could enhance their policies in this area.

FINRA Regulatory Notice 07-43[13]

This Regulatory Notice addresses firm obligations relating to senior investors and highlights industry best practices, suitability concerns, communications with the public (including use of designations and seminars), and dealing with investors with diminished capacity and occurrences of suspected financial abuse. The Notice also provides practical tips for firms to follow when drafting firm policies related to senior investors.

***FINRA Report: Securities Helpline for Seniors*[14]**

In April 2015, FINRA implemented a "Securities Helpline for Seniors," which is a toll-free number that senior investors can call to get assistance from FINRA or raise concerns about issues with brokerage accounts and investments.[15] As of December 2015, FINRA reported the Helpline fielded over 2,500 calls and as a result, was able to help recover nearly $750,000 in voluntary reimbursements. Moreover, the report highlights several areas which firms should address when implementing internal controls to protect seniors, including suitability, product offerings, and training focused on servicing senior clients.

***SEC Investor Bulletin: Planning for Diminished Capacity and Illness*[16]**

The SEC's Office of Investor Education and Advocacy partnered with the CFPB's Office for Older Americans to generate this bulletin for *investors*. The Bulletin encourages investors to plan for possible "diminished financial capacity"[17] and stresses the importance of such planning tools as: (i) organizing important documents, (ii) providing financial professionals with trusted emergency contacts, and (iii) creating a durable financial power of attorney. The Bulletin goes on to provide guidance for those who may not be suffering diminished financial capacity themselves, but know someone who is, and how they may be able to help those persons.

As clients continue to live longer, and as the baby boomers come closer to retirement, it is essential for firms to have a thoughtful, dynamic process for dealing with aging clients.

***NASAA Model Rule to Protect Vulnerable Adults from Financial Exploitation*[18]**

On January 22, 2016, NASAA formally adopted this Model Rule, which provides powerful guidance to state registrants on the steps they should take to protect aging clients. The NASAA Model Rule applies to those clients aged 65 or older (and/or those adults who would otherwise be subject to the provisions of a state's adult protective services statute(s)) and requires qualified individuals[19] who reasonably believe that financial exploitation of a vulnerable adult is being attempted to promptly notify Adult Protective Services and their state regulator. Moreover, if financial exploitation is suspected, the investment adviser and/or broker-dealer has the option to delay disbursements from the account of that vulnerable adult. The model rule provides immunity from liability to those qualified individuals who perform such actions in good faith and exercise reasonable care.

V. Developing Effective Controls for Servicing Aging Clients

It is clear from the above guidance that there is a regulatory expectation to have special considerations when servicing aging clients. Their needs are unique, and the life stage of the client – whether pre-retirement, semi-retired or retired – will dictate the investment, income and other life assistance needs for that individual and his or her family. For example, in the above case study, the adviser had known Jessica long before she experienced any signs of diminished capacity. Thus, how the adviser approached working with Jessica changed over time.

With this in mind, how should firms go about developing policies and procedures for servicing aging clients?

Policy Development

Whenever developing any policy, one of the most important things you can do is listen to what challenges the financial professionals face. Begin your policy development by interviewing your financial professionals to see what challenges they are facing when servicing elderly clients. Next, define what type of customer falls into the category of an "aging" client. While certain conditions (such as the onset of dementia) can occur at any age, it becomes much more prevalent once clients reach age 65 or above. Be sure to define who is an elderly client, what "age" is triggering special considerations for suitability reviews and how financial professionals should escalate their concerns (how and to whom) if they suspect diminished capacity or elder abuse.

The firm's procedures should include how the organization regularly monitors accounts of their aging client base. This includes internal surveillance by compliance and operations as well as financial professional interaction with their clients. Remember: In our case study, had Bill not had continuous contact with his client Jessica, signs of diminished capacity and elder abuse might have gone unnoticed.

Train Advisers Regarding Specific Aging Client Issues

Training is an important tool for firms to help ensure that their personnel understand the needs of senior investors. Training should cover a wide array of topics, including the policies of the firm that relate to senior investors such as product types and suitability. Training should also discuss those "red flags" that personnel should be looking for to identify whether a client is portraying signs of diminished capacity and/or elder abuse. As part of this training, be sure to cover the steps personnel should take to escalate and concerns they have within the firm should they notice such red flags.

- **TIP:** Do not limit training to just internal personnel. Expand this to include aging clients. Proactively educate clients on how to avoid being victims of financial fraud. Provide additional information, and spend time carefully reviewing important disclosures regarding the characteristics of those products and services being offered to help ensure elderly clients clearly understand their financial investments.

Provide Guidance on the Use of Designations

Dependent upon your client base and services performed by your firm, consider having certain sales and management personnel attain senior-specific professional designations and certifications. Such designations should require formal certification programs, which include rigorous curriculum and continuing professional education. As part of your policy, consider those regulations[20] that govern how firms may advertise such designations to the general public and provide guidance accordingly.

Prominently Disclose Costs and Fees Associated with Investment Products and Services

Recent initiatives (such as the SEC's Retirement-Targeted Industry Reviews and Examinations ("ReTIRE") Initiative[21] and the Department of Labor's ("DOL's") final rule on "Definition of the Term "Fiduciary"; Conflict of Interest Rule— Retirement Investment Advice[22]") have focused on how financial professionals should approach recommendations of investment products and services – particularly when performing "rollovers" for aging clients. The expectations portrayed in these initiatives set forth that financial professionals prepare documentation to present to clients that support whether a rollover is appropriate for a particular client. In developing such documentation, it is recommended that certain information be included, such as: (i) an explanation of the tax ramifications of performing a rollover, (ii) alternative investment possibilities, (iii) a detailed description of the registered firm's compensation (both direct and indirect) resulting from a rollover, and (iv) a customer signature line evidencing that the client had an opportunity to review the information and ask any questions he or she may have had.

Operational Practices: New Account Opening and Beyond

Financial advisors often serve as the first line of defense for addressing aging client needs. More than ever, as a client ages, financial advisors must have active dialogue to ascertain what that aging client needs. At the onset of the engagement, it is imperative for financial advisors to ask their clients, "if something happens to you or if I have a concern, whether it be a medical condition or financial exploitation, is there someone you trust – an emergency contact – whom I can contact on your behalf?" This information should be gathered and memorialized at the inception of the client relationship. If the client does not know how to respond, ask them to think about this carefully and capture this information at the next client meeting.

Next, confirm with clients who has authorization on their accounts. For example, we learned in our case study that Jessica has an estranged daughter. As a financial professional, it is important for Bill to know whether Jessica's daughter is the closest next of kin and whether Jessica will grant Bill permission to speak to the estranged daughter under certain circumstances. To the extent she will, this should be outlined in advance with the client.

As we have learned, dealing with aging clients poses many challenges. To the extent an investment adviser services retail clients, it is essential to turn to your operational procedures to create and implement a dynamic system for dealing with aging clients. Sample operational policies to consider implementing include:

- What and how to document atypical aging client behaviors (such as erratic financial questions and decisions, unexplained withdrawals, drastic shifts in investment style and changes in beneficiaries and professional advisors);

- Review aging client files and documentation frequently to fill-in any gaps. For example, if the firm maintains copies of trust documents, check for instructions for determining the grantor's incapacity;
- Ask the client whether a Power of Attorney is in place. If there is no Power of Attorney, ask the client to complete a form instructing the firm who their emergency contact is and what to do (such as how to contact, freeze the account, etc.) if diminished capacity is suspected;
- Escalate all aging client concerns to your supervisor, who will notify legal/compliance. Typically, it is best to not make any portfolio changes and hold all transactions while awaiting direction from legal/compliance; and
- Stay in communication with your client. If any potential elder abuse is suspected, immediately notify a designated supervisor who will decide on appropriate steps, including notification to law enforcement and regulatory authorities.

Compliance Practices: How to Create a "Culture of Compliance" for Servicing Aging Clients

There is a regulatory expectation that financial institutions will act in their client's best interest by, among other things, developing strong policies and procedures customized to the firm's business model. Therefore, to the extent that the firm services aging clients, consider implementing the following risk management tips:

- Document a "response plan" on what actions will be taken by the firm for aging client concerns. This may include sending account statements to both the account holder and power of attorney, contacting emergency contacts for medical concerns and reaching out to law enforcement and regulatory authorities with concerns of elder abuse and exploitation.
- Review the terms of your standard advisory contracts and investment policy statements with counsel before acting and preventing trades in a client's portfolio. Notably, and particularly for investment advisers, if a manager and client agree to actively manage a client's account or to rebalance the account at certain set intervals, that adviser may have a contractual and fiduciary obligation to do so. In other instances, the states and FINRA have either enacted or proposed certain safe harbors whereby a financial advisor may be permitted to not take such action where such action could detrimentally impact the aging client.
- Summarize regulatory guidance so that advisors can understand why aging client compliance and operational protocols are important.
- Develop suitability considerations for aging client products and services.
- Communicate investment guidelines for dealing with elderly clients.
- Enhance account opening procedures by requesting emergency contact information, powers of attorneys and applicable documents, as necessary, and capture in a central depository such as the firm's CRM system.
- Develop protocols for documenting conversations with aging clients and capturing changes observed (both physical and cognitive)
- Implement an escalation process for what to do if you suspect a client has dementia or is a victim of elder abuse.
- Implement supervisory and internal controls identifying unique trends or patterns that could suggest diminished capacity and/or elder abuse (*e.g.,* multiple withdrawals atypical for that client).
- Conduct education and training seminars for advisors
- Consider under what circumstances the firm will self-report an aging client issue to Adult Protective Services, to law enforcement and/or regulatory authorities

- **TIP 1:** Be able to capture when accounts have a power of attorney added or switched to someone else
- **TIP 2:** Develop a process for verifying the authenticity of the client's signature.
- **TIP 3:** Provide guidelines for duplicate account statements to be sent to the account holder and the person with power of attorney.
- **TIP 4:** Check with counsel and compliance prior to taking action.

VI. Conclusion

As clients continue to live longer, and as the baby boomers come closer to retirement, it is essential for firms to have a thoughtful, dynamic process for dealing with aging clients. It is prudent to assess your internal control structure to ensure it addresses, at a minimum, regulatory requirements, is tailored to your firm's business and most importantly, effectively protects your aging clients. By implementing sound practices and through consistent training, the firm will be in a good position to meet those regulatory requirements outlined within this article.

ENDNOTES

[1] *See* http://www.aoa.acl.gov/aging_statistics/index.aspx.

[2] *Id*.

[3] *See* https://olderadults.wordpress.com/2013/03/28/capacity_assessment/.

[4] For more information, please refer to the following as published by the Alzeheier's Society at https://www.alzheimers.org.uk/site/scripts/documents_info.php?documentID=106.

[5] *Id*.

[6] For more information, *see* http://www.crisis-prevention.com/Blog/September-2010/Using-Functional-Assessments-to-Determine-Mental-C.

[7] *See* http://www.cdc.gov/violenceprevention/elderabuse/definitions.html.

[8] *Id*.

[9] *See* FINRA "2016 Regulatory and Examination Priorities Letter" (Jan. 5, 2016) at http://www.finra.org/sites/default/files/2016-regulatory-and-examination-priorities-letter.pdf and SEC OCIE's "Examination Priorities for 2014" (Jan. 9, 2014) at https://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2014.pdf. In addition to these releases, federal and state laws exist in this area and should be considered by firms when developing policies and procedures and prior to engaging in the performance of any services on behalf of an elderly client.

[10] See https://www.sec.gov/spotlight/seniors/seniorspracticesreport092208.pdf.

[11] *See* https://www.finra.org/newsroom/2015/sec-staff-and-finra-issue-report-national-senior-investor-initiative.

[12] *Id*.

[13] *See* http://www.finra.org/sites/default/files/NoticeDocument/p036816.pdf.

[14] *See* https://www.finra.org/newsroom/2015/finra-releases-report-its-securities-helpline-seniors

[15] *See* https://www.finra.org/investors/finra-securities-helpline-seniors.

[16] *See* https://www.sec.gov/oiea/investor-alerts-bulletins/ib_illness.html.

[17] The Bulletin defines "diminished financial capacity" as a decline in a person's ability to manage money and financial assets to serve his or her best interest, including the inability to understand the consequences of investment decisions.

[18] *Available at* http://www.nasaa.org/38777/nasaa-members-adopt-model-act-to-protect-seniors-and-vulnerable-adults/.

[19] "Qualified individual" is defined by the Model Rule as any agent, investment adviser representative or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

[20] Such regulations include, but are not limited to: Rule 206 of The Investment Advisers Act of 1940, as amended, FINRA Rules 2010 and 2210.

[21] *See* https://www.sec.gov/about/offices/ocie/retirement-targeted-industry-reviews-and-examinations-initiative.pdf.

[22] *See* http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=28806.