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ELDER JUSTICE

**Strengthening Efforts to
Combat Elder Financial
Exploitation**

Statement of Kay E. Brown, Director
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United States Government Accountability Office
Washington, DC 20548

Chairman Kohl, Ranking Member Corker, and Members of the Committee:

I am pleased to have this opportunity to present some of the results from the latest study in our body of work on elder justice issues. According to experts, the illegal or improper use of older adults' funds, property, or assets is reaching epidemic proportions in this country and has far-reaching effects on its victims and society, in general. The money older adults lose in these cases is rarely recovered and this loss can undermine both the health of older adults and their ability to support and care for themselves. One study estimated that financial exploitation cost older adults at least \$2.9 billion in 2010.¹

Older adults can be exploited by family members and friends, home care workers, legal guardians and other fiduciaries, as well as those in the financial services industry. They also often fall prey to mail, telephone, and internet scams that offer substantial lottery or other winnings in exchange for so-called taxes or fees. Because elder financial exploitation can take many forms, combating it involves state and local agencies, and their federal counterparts, across social services, criminal justice, and consumer protection systems.

My testimony today is based on our November 2012 report, which is being released to the public today.² It describes the challenges states face in combating the many types of elder financial exploitation and the actions federal, as well as state and local agencies, are taking to overcome these challenges. To obtain this information we interviewed state and local officials from social services, criminal justice, and consumer protection agencies in California, Illinois, New York, and Pennsylvania—states that vary geographically, and have large elderly populations and a number of initiatives that aim to combat elder financial exploitation. We also identified and assessed the activities aimed at preventing or responding to elder financial exploitation of seven federal

¹ MetLife Mature Market Institute et al. (2011), *The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation against America's Elders*. This estimate is based on a study of media reports from April to June 2010.

² GAO, *Elder Justice: National Strategy Needed to Effectively Combat Elder Financial Exploitation*, [GAO-13-110](#) (Washington, D.C.: November 15, 2012).

agencies;³ conducted in-depth reviews of six prosecuted elder financial exploitation cases that are a non-generalizable sample of elder financial exploitation cases; interviewed many experts in this subject area; and reviewed relevant documents and published research. We conducted this performance audit from November 2011 to November 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our investigative activities were conducted in accordance with standards prescribed by the Council of the Inspectors General for Integrity and Efficiency.

We found that state and local social services, criminal justice, and consumer protection agencies face many challenges as they work to prevent and respond to elder financial exploitation. For example

- Officials in each of the four states we contacted cited the need for more safeguards to prevent exploitation by financial services providers, power of attorney⁴ agents, and paid in-home caregivers;
- Officials told us that older adults need more information about what constitutes elder financial exploitation and how to avoid it, but social services and law enforcement agencies do not always have the resources to promote public awareness in this area;
- Banks are well-positioned to recognize, report, and provide evidence supporting investigations in elder financial exploitation cases; however, many social services and law enforcement officials we spoke with indicated banks do not always recognize and report exploitation or provide the evidence needed to investigate it; and

³ We reviewed the activities of the Department of Health and Human Services' Administration on Aging, Bureau of Consumer Financial Protection, Department of Justice, Federal Trade Commission, Department of the Treasury's Financial Crimes Enforcement Network, Postal Inspection Service, and Securities and Exchange Commission.

⁴ An older adult (the principal) can use a legal document referred to as a financial power of attorney to appoint another person (an agent) to manage their finances should they become incapable of doing so.

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- According to experts, collaboration between the social services system—which protects and supports victims—and the criminal justice system—which investigates and prosecutes crimes—can be an effective means of combating elder financial exploitation. However, officials in three of our four states noted that this collaboration can be difficult to achieve. These two systems do not respond to exploitation or carry out their work in the same way, so there can be difficulties communicating across disciplines and different views regarding limits on information sharing.⁵

In many of the locations we contacted, state or local agencies are actively pursuing solutions to at least some of these challenges and there are some federal initiatives as well that could help address them. When it comes to preventing the sale to older adults of unsuitable or fraudulent investments, the Securities and Exchange Commission (SEC) and the Bureau of Consumer Financial Protection (CFPB), have each taken steps to help older adults avoid being exploited. SEC and CFPB have conducted research related to investment fraud that targets older adults, and there is a link on SEC's website to Financial Industry Regulatory Authority (FINRA)⁶ information consumers can use to check a financial services provider's qualifications and to understand the many designations used by securities professionals. CFPB also plans to issue a report in early 2013 addressing how information about financial advisors and their credentials should be provided to older adults. To prevent exploitation by power of attorney agents and paid in-home caregivers, 13 states have adopted the Uniform Power of Attorney Act in its entirety,⁷ and Napa County, California, now requires paid in-home caregivers to submit to a background check and obtain a permit before they can be hired.

We found that law enforcement authorities in some locations have devoted resources to promoting public awareness of elder financial

⁵ Brandl et al, *Elder Abuse Detection and Intervention*, (New York: 2007).

⁶ FINRA is a self-regulatory organization that writes and enforces rules for brokers and brokerage firms.

⁷ Among other things, the Uniform Power of Attorney Act (1) explicitly defines the duties of the power of attorney agent, including fiduciary duties such as acting in good faith and keeping careful records; (2) allows a third party to refuse to honor a power of attorney agreement if there is a good faith belief that the principal may be subject to abuse, and requires the third party to report to APS; (3) allows co-agents to be appointed for additional third-party oversight; and (4) imposes liability on agents who violate the law.

exploitation. For example, the Pennsylvania Attorney General's Office has published a guide on how seniors can avoid scams and fraud, and in Cook County, Illinois, the Senior Law Enforcement Academy within the Sheriff's Department instructs older adults in how to prevent elder financial exploitation. In addition, each of the federal agencies we reviewed independently produces educational materials that could help prevent elder financial exploitation.

We also identified state, local, and federal activities encouraging banks to work with social services and law enforcement, and activities to promote and support collaboration between the social services and criminal justice systems. Illinois, for example, requires bank employees to receive training in how to report exploitation. Although we could identify no federal requirements for banks to train employees to recognize or report elder financial exploitation, the Administration on Aging (AoA) is considering collaborating with one large national bank on a project to develop such training. Financial institutions are required to file Suspicious Activity Reports (SAR) of potentially illegal bank transactions that involve, individually or in the aggregate, at least \$5,000 with the Financial Crimes Enforcement Network (FinCEN), which has issued an advisory to banks that describes elder financial exploitation and its indicators and asks banks to specify "elder financial exploitation" when applicable in their SARs.

In each of the four states we contacted, there are also local initiatives to help bridge the gap between social services and criminal justice agencies. In some Pennsylvania and New York counties, multidisciplinary groups meet to discuss and help resolve all types of elder abuse cases. The Philadelphia Financial Exploitation Task Force and financial abuse specialist teams in some California counties, on the other hand, concentrate only on elder financial exploitation cases. Some steps have also been taken at the federal level to promote and inform collaboration between the social services and criminal justice systems in states. For example, a few grants to combat elder abuse or other crimes from AoA and the Department of Justice have required or encouraged collaboration, such as the use of multi-disciplinary teams, in states.

Elder financial exploitation is a complex, nationwide problem, and combating it effectively requires a concerted, ongoing effort on the part of states and localities, as well as support and leadership at the federal level. Each of the seven federal agencies we reviewed is working to address this problem in ways that are consistent with its mission. However, preventing and responding to elder financial exploitation also

calls for a more cohesive and deliberate national strategy. The Elder Justice Coordinating Council (EJCC)—a group of federal agency heads charged with setting priorities, coordinating federal efforts, and recommending actions to ensure elder justice nationwide—can be the vehicle for defining and implementing such a national strategy. To this end, we are recommending that the EJCC develop a written national strategy for combating elder financial exploitation. We suggest that this strategy ensure coordination of public awareness activities across federal agencies; address the need to identify and disseminate promising practices and other information states and localities can use to prevent exploitation; educate the public; promote agency collaboration; and promote investigation and prosecution of elder financial exploitation. Our report also recommends a number of actions individual federal agencies should take to better support state and local social services and law enforcement agencies, such as studying the feasibility of requiring that consumer complaints to the Federal Trade Commission's (FTC) Consumer Sentinel Network database include victim's age or an indication of whether the complaint involves elder financial exploitation.

We provided a draft of this report to the seven federal agencies that we reviewed. CFPB, FTC, and the Department of Health and Human Services (HHS) provided comments. CFPB and HHS supported GAO's recommendations. FTC did not believe they should examine the feasibility of requiring victim's age in complaints. GAO maintains the importance of its recommendation.

Chairman Kohl, Ranking Member Corker, and Members of the Committee, this concludes my statement. I would be happy to answer any questions you might have.

Contacts and Acknowledgments

For questions about this testimony, please contact Kay Brown at (202) 512-7215 or brownke@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this testimony include Clarita Mrena, Eve Weisberg, Andrea Dawson, and Brittni Milam. Also contributing to the report were James Bennett, Gary Bianchi, Jason Bromberg, Alicia Cackley, Paul Desaulniers, Holly Dye, Eileen Larence, Jean McSween, Chris Morehouse, Claudine Pauselli, Almeta Spencer, Kate Van Gelder, and Craig Winslow.

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