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H.R. 3040 "The Senior Financial Empowerment Act"

Before the

House Judiciary Committee

Subcommittee on Crime, Terrorism and Homeland Security

May 25, 2010

Washington, DC

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Good Morning, I am Lee Hammond, AARP President. On behalf of millions of AARP members, we thank you for convening this hearing on protecting the financial security of seniors.

It is important to better equip the nation's elders, their families and caregivers with tools, knowledge, and enforcement agency access to aid in preventing and reporting senior financial abuse. AARP is committed to educating our members about financial abuse so that they may avoid it. Through our Education and Outreach Financial Security Team, we inform retirees and near-retirement individuals about how to spot misleading representations about financial investments. Through our No Free Lunch campaign, we provide members with checklists on what to listen for if they wish to attend an investment seminar. Members can report any concerns about the presentation to AARP and their state regulators. Moreover, we have long been advocates for the robust regulation of financial products to protect the hard-earned retirement nest eggs of millions of Americans. To that end, we have been strong supporters of financial regulatory reform, and in particular, have worked hard to ensure that brokers are subject to the same fiduciary duty that must be met by investment advisers.

H.R. 3040 is another step that encourages a united, bipartisan commitment to protecting older, vulnerable adults from financial abuse and exploitation from various fraudulent and deceptive techniques that undermine their financial security and independence. While most forms of elder abuse go unreported, the results of non-financial abuse tend to be more visible and detected earlier. Financial fraud and abuse often remain hidden until the monetary losses affect the individual's well being. Limited data about the problem of financial fraud and abuse tells us that older persons are targets of fraudulent schemes compared to other age groups. More reliable data will become increasingly important as the Boomer generation swells the 60+ ranks.

Elder Financial Abuse and Exploitation

AARP continues to be concerned about financial exploitation of older people. Although financial abuse has been described as the fastest growing form of elder abuse, too few studies have been conducted on its incidence and prevalence to provide an accurate picture of the numbers of victims. Moreover, protecting older people from financial abuse is stymied by insufficient resources devoted to reporting, investigating, and especially enforcing laws designed to prevent such crimes. However much exploitation is reported or prosecuted, everyone agrees that more financial abuse occurs than is brought to light.

Accurate current data on financial abuse are difficult to obtain for a number of reasons. No national reporting mechanism exists to record the incidence or prevalence of financial abuse of older persons. Many victims are reluctant to report financial abuse. But even those who would report may be unaware they are being exploited because of the manipulative ways that perpetrators gain their trust and steal their money. Many may not know where or how to report such exploitation, and to the extent the right law enforcement agency receives a complaint, it likely has insufficient resources to adequately protect individuals or prevent such perpetration against others.

Recognizing that financial exploitation is a pervasive and increasing problem that specifically threatens our members' financial security, AARP is addressing this problem through programs that educate members, families, professionals and potential victims. While important, education alone is not enough. More resources must be made available to local and federal law enforcement agencies to enforce the existing laws in order to better protect older people from such abuse.

Telemarketing Fraud

The National Consumer League's National Fraud Information Center reports that consumers age 60 and older are particularly vulnerable to certain types of telemarketing fraud. These include:

- Magazine sales scams
- Prizes/Sweepstakes scams, and
- Phishing

Telemarketing fraud is a major concern for older people. To date, consumers have registered 58.4 million phone numbers on the Do Not Call Registry, and according to the Federal Trade Commission (FTC), most telemarketers have been diligent in their efforts to scrub their lists and to meet the Registry's requirements. A recent Harris® Poll showed high levels of compliance, with a large percentage of telemarketers who are required to download the list and delete newly included numbers doing so on a timely basis. Encouraging more people to register will help avoid telemarketing fraud and will help enforcement efforts to prevent fraudulent practices.

Investment Fraud

The US Securities Exchange Commission has found that an estimated 5 million senior citizens become victims of financial abuse and fraud each year. They attribute this high rate to the fact that older investors hold a relatively high amount of wealth, and to the fact that one-third of all U.S. investors are between 50 and 64 years of age. Contrary to popular belief, the Financial Industry Regulatory Authority (FINRA) finds that the most frequent victim of investment fraud is a college-educated male, age 55 to 65, who is an active investor and does not use an advisor.

In October of 2009, AARP hosted a Public Policy Institute Solutions Forum on Investment Fraud at which the U.S. Securities and Exchange Commission

Chairwoman, Mary L. Schapiro, addressed enforcement, reporting and complaints review, and public financial education. In her remarks, the Chairwoman noted the importance of comprehensive financial education, emphasizing an effort launched by the SEC to offer a financial handbook focused on research-supported information on key financial decisions during various life stages, including saving for and managing money during retirement, and strategies for avoiding fraud. This effort would be complemented by the objectives of H.R. 3040, which also places an emphasis on education.

Identity Theft and Internet Related Fraud

Identity theft is defined both by statute (ID Theft Act, 18 U.S.C. § 1028(a)(7), 1029(e)) and by FTC rule (16 C.F.R. §603.2), and includes the misuse or attempted misuse of any identifying information – such as the SSN, biometric data, or an existing credit card account number - to commit fraud. Identity theft occurs in numerous ways, including through forgeries, account takeovers, and unauthorized use of personal information to open a new account.

An analysis of consumer complaints from the Consumer Sentinel Data Base maintained by the FTC indicates that in 2008 identity theft was the number one complaint category in the CSN with 26% of the overall 1.2 million complaints. Of all complaints, 643,195 instances of financial fraud, credit card fraud (20%) was the most common form of reported identity theft followed by government documents/benefits fraud (15%), employment fraud (15%), and phone or utilities fraud (13%). Fraudulent tax return-related identity theft, a subtype of government documents/benefits fraud, has increased nearly six percentage points since calendar year 2006. Electronic fund transfer-related identity theft continues to be the most frequently reported type of identity theft bank fraud during calendar year 2008, despite declining since calendar year 2006.

These complaints revealed $1.8 billion in financial losses, with 84 percent of consumers reporting median monetary losses of $440[1] per consumer. Consumers over age 50 accounted for 30 percent of all complaints to the database, and 26 percent of all identity theft complaints.

According to 2008 data, more than three of five consumers (63 percent) who complained to the Consumer Sentinel Database indicated that they were contacted by the fraudulent company by email or through the Internet. Moreover, with the growth in social networking, use of the internet is anticipated to be a growing method of perpetrating financial fraud.

Conclusion

Poor data notwithstanding, financial elder abuse is a hidden, but very real, problem. H.R. 3040 is a cost-effective, targeted approach to preventing financial

[1] Median loss per consumer reporting a monetary loss.

exploitation and promoting economic security and financial education among those approaching retirement and a likely greater dependence on fixed incomes. The Senior Financial Empowerment Act would make improvements that strengthen and coordinate partnerships among public, private non-profits and government efforts to identify, target, and educate seniors most vulnerable to abusive mail, Internet, and telemarketer schemes, along with their families and caregivers.

H.R. 3040 promotes the ability of older Americans to live independently and maintain dignity and autonomy through provisions that would:

- Centralize a monitoring service for Consumer Education on Mail;
- Telemarketing and Internet Fraud Targeting Seniors in the Federal Trade Commission;
- Authorize the Attorney General to make local grants to prevent mail, telemarketing, and Internet fraud; and
- Establish a National Senior Fraud Awareness Week in May of each year to expand education and public awareness.

Again, we commend the subcommittee for holding this important hearing today to focus more attention on the critical problem of financial elder abuse. We hope that this hearing is just the beginning, and we urge this committee to take action to address this growing national problem, including authorizing more resources for enforcement. While more data is necessary to fully understand the various dimensions for these forms of financial abuse, AARP believes that the provisions of this bill are a targeted and reasonable first step in detecting and preventing financial elder abuse. H.R. 3040 empowers seniors to more effectively manage and protect their retirement assets. We thank you again for the Committee's leadership in this area, and look forward to working with the Congress and Administration to protect older Americans from financial exploitation.