What WHCoA Means for Community Banks

The White House Conference on Aging "WHCoA" occurs once each decade. The last time the conference occurred in 2005, America was experiencing boom times, and there was no thought of a government agent to protect consumers. On July 13, 2015, the CFPB released Director Richard Cordray's prepared remarks for the White House Conference on Aging. Cordray noted that older Americans "fall prey to financial exploitation."[1] While issues around retirement and health have been common themes in past conferences, this week's conference included renewed interest and focus on financial exploitation. The White House press office and the CFPB announced that, by the end of this year, the CFPB will release an advisory to help financial institutions prevent, recognize, and report elder financial exploitation. Will the CFPB shift its focus from the younger generation, namely cracking down on alleged abuses in student loan practices, to its Office of Older Americans, in 2016?

Like students and servicemembers, older Americans are considered vulnerable to financial crimes and can benefit from financial empowerment. WHCoA and the CFPB's forthcoming advisory may portend additional compliance requirements with respect to elder Americans or serve as a reminder to financial institutions to focus on consistent implementation of existing policies and procedures. For example, Unfair, Deceptive, or Abusive Acts & Practices, "UDAAPs," can be in a loan contract, product description, marketing or collection script, advertising materials, or other form. They can be statements or omissions. UDAAP and CFPB guidance calls for considering how a member of a group would interpret certain materials. If a bank intended to advertise to senior citizens, how might a reasonable senior citizen interpret the advertisement? Community banks should regularly conduct a UDAAP review for all materials before they are released for consumption by consumers. The CFPB isn't the only regulator with concerns about protecting older Americans. In April, the SEC and FINRA released the National Senior Investor Initiative, a report that included reference to brokers targeting the elderly with products with unsuitable investment risks. Finally, community banks may find it helpful to review state elder abuse laws to check reporting requirements. Georgia law requires financial institution employees to report exploitation of disabled adults and the elderly, with some exceptions.[2]

Second, identity theft is a common form of financial exploitation that many older Americans fall victim to as a result of accumulated income and diminished capacity.[3] It may be time for your bank to revisit your identity theft policies and procedures for compliance. The bank may also revisit its power of attorney procedures and forms currently in use. Do the bank's existing policies and forms sufficiently help to prevent financial exploitation of elders? Twelve percent of complaints received through the CFPB database were related to bank accounts and service.[4] Does the bank need to update its red flags for detecting identity theft and other forms of financial abuse? Banks may find it helpful to identify high risk services for different demographics and flag and identify complaints from seniors. Finally, the bank should be confident that appropriate staff members are trained on when the bank can disclose nonpublic personal information.

As this year marks the 50th anniversary of Medicare, Medicaid, and the Older American Act, as well as the 80th anniversary of Social Security, WHCoA should prompt not only a refocus on compliance efforts to prevent violations, but also renewed interest in serving older customers with concerns about retiring, investing, and maximizing the utility of financial products. USA Today reported last month that

"Millennials," those born between 1982 and 2000, now outnumber "Baby Boomers," those born between 1946 and 1964.[5] While there have been a number of trends toward catering to and studying Millennials' banking habits and needs, community banks have traditionally served long-term customers with whom they have developed personal relationships with. As a result, community banks have an ideal opportunity to continue this dynamic by exceeding the expectations of older customers with the products and client service the bank provides.

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[1] Prepared Remarks of CFPB Director Richard Cordray at the White House Conference on Aging, *available at* http://www.consumerfinance.gov/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-the-white-house-conference-on-aging/.
[2] O.C.G.A. § 30-5-4 (2014).
[3] Money Smart for Older Americans: Prevent Financial Exploitation, at 1, 5, *available at* http://files.consumerfinance.gov/f/201306_cfpb_msoa-participant-guide.pdf.
[4] Consumer Response: A Snapshot of Complaints Received Through June 30, 2014, at 10, *available at* http://files.consumerfinance.gov/f/201407_cfpb_report_consumer-complaint-snapshot.pdf.
[5] Millennials Now Outnumber Boomers, Census Bureau Says, *available at* http://www.usatoday.com/story/news/nation/2015/06/25/millennials-now-outnumber-boomers-census-says/29294241/.