

SEC's Third Annual Senior Summit

What Financial Services Firms Need To Know About The Senior Investor



AARP

FINRA





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Diminished Capacity

- Diminished mental capacity, such as Alzheimer's Disease and other forms of dementia, may impair a client's ability to make appropriate decisions regarding his or her portfolio.
- According to a recent study published by the National Institute on Aging, diminished mental capacity affects approximately 20% of people aged 85 years and older.
- Diminished capacity may be difficult to identify at times, especially in its milder forms.



Diminished Capacity-Red Flags

- While not qualified to diagnose clients, Firms and their Registered Representatives should be alert to the signs of Diminished Capacity, including:
 - Memory loss (is the client repeating orders or questions?)
 - Disorientation (is the client confused about time, place or simple concepts?)
 - Difficulty performing simple tasks
 - Poor judgment
 - Drastic mood swings
 - Difficulty with abstract thinking



Diminished Capacity-Risks

- A Firm must decide whether to accept, or refuse, an order from a client suffering from diminished capacity.
- There are risks with either course of action.
- Sometimes a Firm must protect the client from him or herself.
- What we do may result in complaints from either the client or the client's family members, guardian, or heirs



Elder Financial Abuse

- Often occurs in tandem with a client's diminishing mental or physical capacity
- Occurs when someone exploits a position of influence or trust over an elderly person to gain assets to that person's assets, funds or property.

Examples of abuse include:

- Cashing checks without authorization
- Forging signatures
- Improper use of conservatorship, guardianship or POA



Elder Financial Abuse-Red Flags

- Sudden reluctance to discuss financial matters
- Sudden, atypical or unexplained withdrawals, wire transfers or other changes in financial situation
- Drastic shifts in investment style
- Abrupt changes in wills, trusts, POAs, or beneficiaries
- Concern or confusion about missing funds
- Appearance of insufficient care despite significant wealth



Diminished Capacity and Elder Abuse - Escalation

Diminished Capacity

- RR should determine whether there is an executed trading authorization or durable power of attorney on file. If so, consider contacting the agent.
- If appropriate, suggest that the client bring a trusted family member/friend to the next meeting.
- When these options are not available, Firms are in a difficult position – privacy laws may prohibit contacting a third party without the client's authorization.
- Firms should consider a centralized escalation process to Legal or Compliance to promote consistency of approach.



Diminished Capacity and Elder Abuse - Escalation

- State law may require Firms to report suspected cases of elder abuse.
- Firms should have in place procedures for the escalation of suspected elder abuse.
- Suspected abuse is sufficient reason to escalate.