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Mr. Jed Hodgson
Member, Committee 8 Working Group on
Senior Investor Vulnerability
International Organization of Securities Commissions

VIA EMAIL

Dear Jed,

At Committee 8's request, Financial Planning Standards Board Ltd. (FPSB[1]) respectfully submits the results of our recent survey on senior investor vulnerability. While our survey included C8's original questions, we added a few more in an attempt to gain more thorough insights from our pool of more than 170,000 CERTIFIED FINANCIAL PLANNER professionals in 26 territories around the world.

We obtained survey results from 2,641 respondents in 12 territories, including Australia, Canada, Hong Kong, Indonesia, Malaysia, Namibia, The Netherlands, New Zealand, Singapore, South Africa, Turkey and the United States. Responses from Canada make up the majority of our responses; however, the themes expressed by the Canadian pool of respondents tracked very closely with those we received from the other 11 territories, so we don't believe the Canadian responses unfairly skew the opinions expressed by financial planners elsewhere.

For the purposes of our survey, we defined "seniors" as those in or nearing retirement. At a high level, here are some of the key takeaways from the replies we received:

- More than one quarter (27%) of respondents said they had encountered a client within the last 12 months who was the victim of fraud or had been taken advantage of as a result of being a senior.
- While financial planners believe seniors are at greater risk of losing money to fraud, or of being taken advantage of, our respondents found it difficult to carve out seniors from any other type of investor who may be inexperienced or have reduced or impaired mental capacity. Our survey participants, however, did identify specific situations in which they felt seniors could be at risk.

[1] FPSB manages, develops and operates certification, education and related programs for financial planning organizations to benefit the global community by establishing, upholding and promoting worldwide professional standards in financial planning. FPSB demonstrates its commitment to excellence with the marks of professional distinction: CFP, CERTIFIED FINANCIAL PLANNER and the CFP Logo Mark. FPSB has a nonprofit member organization in the following 26 territories: Australia, Austria, Brazil, Canada, Chinese Taipei, Colombia, France, Germany, Hong Kong, India, Indonesia, Ireland, Israel, Japan, Malaysia, New Zealand, The Netherlands, the People's Republic of China, the Republic of Korea, Singapore, South Africa, Switzerland, Thailand, Turkey, the United Kingdom and the United States. For more, visit fpsb.org.

- Most respondents indicated there were laws, regulations or programs in place to protect seniors accessing financial services in their jurisdictions, but they added that in most cases, the laws, regulations or programs were designed to protect all investors, not just seniors.
- Stealing and "get rich quick" schemes and mis-selling were cited most often as tactics used in elder financial abuse situations.
- While many respondents said they had created programs or policies to deal specifically with providing financial advice or financial services to seniors, the majority indicated they had no such programs or policies in place.
- The majority of respondents (60%) felt seniors would benefit most if regulators and professional bodies encouraged policies that support the delivery of financial advice to seniors under a client first/best interest duty.

The findings of our 2017 survey reflect – to a large extent – comments FPSB received from financial planners in 2015, when we asked a small group of CFP professionals to identify potential risks that could contribute to global discourse on systemic risks. Among the four major risks identified by the group, demographics and population trends figured prominently. Regarding aging investors and financial planning clients, the themes in 2015 were:

- Protecting aging consumers is a huge issue in both GEMs and mature markets, and needs to be more fully addressed by governments, regulators and professional bodies.
- As investors age and have increased access to pension funds, with more freedoms to make decisions about funds, risk of fraud will rise rapidly.
- The impact of the risks for aging investors is disproportionate because of life stage – investors can't "catch up" if they experience a loss, and social safety nets are dwindling, offering less protection in the event of harm or catastrophe.
- The risks for this category go beyond risk of capital or financial worth – they also include risks of trust, where we need to consider mental competence of the investor on top of aging. Financial planners/advisers don't have the tools or authority to make the judgment call when they suspect their client isn't competent to make a financial decision at any age. Regulators should not separate the aging process from the competency of that aged investor/client.
- Financial intermediaries could be encouraged to invite a younger companion of the investor to analyze the products the senior investor (e.g., 65+) is going to purchase from the adviser.
- With aging investors, there's a tendency for some advisers to classify or typecast the client by age (i.e., at a certain age, the client's portfolio is allocated a certain way, etc.), but it's more appropriate to understand the client's goals and funding needs before assessing their portfolio needs.
- People are living longer and need to take on more risk to achieve their goals because they don't have pension guarantees from employers or governments.

Respondents in FPSB's 2017 survey echoed concerns that seniors have shortened time horizons and could be disproportionately affected by fraudulent schemes. They also noted that those who have not saved enough for retirement could expose themselves to further losses by investing in schemes that promise high returns and low risk.

About FPSB
FPSB owns the international CERTIFIED FINANCIAL PLANNER certification program outside the United States, and grants authority to member organizations in 26 territories to administer, promote and enforce the certification standards. CERTIFIED FINANCIAL PLANNER professionals, representing millions of financial planning clients worldwide, meet rigorous competency, ethics and practice standards, qualifying them to develop financial planning strategies that assist clients in achieving their financial and life goals. CERTIFIED FINANCIAL PLANNER professionals are part of a growing global community of financial services practitioners who place clients' interests first as part of their commitment to financial planning professionalism, and who embrace FPSB's Code of Ethics and Professional Responsibility and Financial Planning Practice Standards.

FPSB's standards are based on a global framework that includes empirical research of the abilities, professional skills and knowledge needed to practice financial planning. FPSB and its member organizations have developed initial education, assessment, experience and ethics requirements, as well as continuing professional development standards for financial planning professionals globally.

What is Financial Planning?
FPSB and its member organizations define financial planning as the process of developing strategies to assist clients in managing their financial affairs to meet life goals. The process of financial planning involves reviewing all relevant aspects of a client's situation across a large breadth of financial planning activities, including interrelationships among often conflicting objectives. At the end of the financial planning process, a financial planner may or may not recommend products to a client.

While financial planning is gaining prominence as a professional practice globally, in many countries, people who call themselves financial planners often do so with little or no training or oversight. FPSB seeks to position financial planning oversight and models of professionalism within, or adjacent to, existing or proposed regulatory frameworks, whereby regulators and professional financial planning bodies work together to clearly distinguish and protect financial planning as a professional practice for the benefit of the public.

FPSB's Point of View
FPSB's response to C8's request for information is presented through the rubric of financial planning – a client-centric, process-driven professional practice that can help (re)build trust and restore the public's confidence in the marketplace and financial intermediaries. If you would like clarification on our submission, or would like additional information, please feel free to contact me at +1-720-407-1902 or at nmaye@fpsb.org. We appreciate the opportunity to participate in this project.

Respectfully submitted,

Noel Maye

Noel Maye
FPSB Ltd. Chief Executive Officer

1. *Compared to other consumers, are seniors at greater risk of losing money to fraud or of being taken advantage of in your jurisdiction (e.g., unsuitable advice or products, unwarranted commissions or excessive fees, etc.)? Please explain and provide details.*

Yes:	70%
No:	30%

While the majority of our respondents answered "yes," many in FPSB's survey found it difficult to distinguish senior investors from any other type of investor when it came to risk. Several individuals noted that young people without a financial education and those with reduced mental capacity are equally at risk. As one Canadian financial planner put it, "This is not a black and white issue. Many so-called "seniors" are highly intelligent and are not in any danger of being taken advantage of. Both seniors and non-seniors who have failing mental capacities or other mental issues will always be in danger of unscrupulous individuals who see the opportunity to profit with reduced risk of detection."

Our pool of more than 2,600 survey participants discussed a variety of scenarios in which senior investors may become victims of unscrupulous practices:

- **"Blind" trust:** A number of financial planners commented that seniors tend to be trusting, not only of advisers, but also of family members who may prey on a senior's dependence. Respondents said some seniors were unfamiliar with new technology and relied on others to help them navigate complex software and financial markets, potentially creating situations in which an asymmetry of knowledge exists between the senior investor and the adviser or family member.
- **Aggressive sales tactics:** Some financial planners commented that product sellers with aggressive sales tactics could intimidate gullible seniors who might be too polite to question. One respondent commented that as a generation, seniors were taught to respect authority, so they may place undue trust in banks or other financial institutions' sales personnel. Other participants in the survey thought that seniors could be more receptive to aggressive sales tactics and high risk/high reward investments if they found themselves short on retirement funds. One financial planner in our survey said, "It happens that retirees realize that they do not have sufficient retirement capital, and then are more susceptible to unscrupulous deals and advisers offering the lure of higher income streams. Low interest rates from conventional products, sometimes below inflation, drive undercapitalized retirees to take excessive risks."
- **Isolation:** Because some seniors live alone, they may crave interaction, leading them to trust sales people who take an interest in them. Practitioners told us they believe that's why phone scams tend to be popular. Lonely seniors may be willing to engage in conversation with a stranger, taking the caller's promises at face value.
- **Lack of education:** Respondents cited a lack of education – both technical and financial – as a factor in why some seniors fell prey to scams. "[Seniors] may not have the educational background to be cognizant of the risks of the financial products they are purchasing. These risks may not be properly or fully explained to the seniors. They may also be vulnerable to mis-selling, and purchase financial products unsuitable for their life stage," wrote one survey participant. In addition, "Many seniors are not computer literate and do not

know how to find information to confirm the accuracy of information presented," wrote another.

- **Pressure from family members:** While financial planners said some bad actors do exist in the financial advice industry, they more often saw seniors vulnerable to pressure from family or friends to make certain investments. Several respondents mentioned seeing abuse by family members or others who held power of attorney over a senior.

Several people in our survey noted that, while any of the scenarios mentioned (or a combination of scenarios) could affect anyone, seniors are particularly vulnerable because of their shortened time horizon. For example, a retiree who loses money on a poor investment or scam would have less time to recover from the loss than someone younger.

2. *Are there laws, regulations or programs in place to protect seniors accessing financial services in your jurisdiction?*

Yes	59%
No	41%

The percentages listed for this answer may be a bit misleading. While the majority of respondents indicated there were laws, rules or regulatory guidance in their jurisdictions, most who answered "yes" noted that the laws, rules or regulatory guidance were designed to protect all citizens, not just senior citizens. Those who answered "no" were more likely to pay attention to the question's specific reference to seniors and make the distinction.

Since those responding to the survey were CERTIFIED FINANCIAL PLANNER, or CFP professionals, several mentioned their professional code of ethics and responsibility, which requires them to act in the best interests of their clients.

In jurisdictions where consumer protection laws, rules and/or guidance exist, some respondents raised concerns about their effectiveness. "Malaysia has the financial regulations in place, BUT actual enforcement in financial-related wrongdoing is very weak…" wrote one survey participant. Another called such regulation "toothless" and "reactive." In the United States, a respondent wrote, "The SEC and individual states have started to add laws and rules to protect seniors, but the truth is that most of these protections are weak. The DOL (Department of Labor) rules help, but it's not that clear if they will be effective under the Trump administration."

3. *What is/are the most common type(s) of abuse you see happening to seniors accessing financial services in your jurisdiction?*

Respondents in our survey reported seeing elder financial abuse that used a variety of tactics:

- **Stealing:** Some examples reported included children taking – and not repaying – loans from the elderly; caregivers spending money without regard to the senior's best interests; impersonation of a senior to gain access to a credit card or bank account; or, abuse by children seeking to protect their inheritances.
- **"Get rich quick" schemes:** Survey respondents reported seeing seniors buy into schemes offering high returns and promising little or no risk, churning between products overseen by different regulators, pyramid schemes (such as binary trading), email and telephone scams, and Ponzi schemes.

- **Mis-selling:** Some said advisers were encouraged to promote products profitable to the company, rather than the investor. Others reported sales of unsuitable products, with higher risks than should be appropriate for senior investors, while still others saw a lack of transparency around embedded fees. Several commented that some advisers made recommendations without considering the tax implications for the client, which meant the investor's taxes could be higher as a result.

Financial planners cited issues such as blind trust and a lack of education on the part of seniors as exacerbating the abuse problem.

4. *In your practice, have you created programs or policies to deal specifically with providing financial advice or financial services to seniors?*

Yes	47%
No	52%

Some financial planners reported taking extra steps to confirm understanding and the wishes of their senior clients before taking action. In addition, some reported starting the conversation around elder abuse early. One respondent commented, "I have a document asking for their instructions of what they would like for me to do if I suspect anything is amiss." Another wrote, "Another important consideration is to ask senior citizens if you could involve their children or other trusted family members in the discussion where you are concerned about their decision-making ability. This does not mean they have to have dementia, but one can sometimes see that the person does not fully understand. I think that makes sense to protect yourself and show that you care about your client by broaching this question."

Several financial planners reported changing the way they communicate with seniors to better facilitate understanding. One respondent said all meetings and dealings were held face-to-face with senior clients. According to another, "I try to engage seniors early in the decision making process, giving them enough opportunity to understand. All materials are not marketing brochures, but my own documents explain in simple terms how the products work or the threats/risks they face. I try to give seniors enough time to consider their options and ask questions. With some seniors, especially where family members are involved and helping, we evaluate each option available, suitable or not, so as to decide on the best way forward."

Of those who said they did not have specific programs in place to address seniors' needs specifically, many said they act as fiduciaries for all of their clients, so there was no need to create a separate program for seniors. "I conduct my practice so that all financial decisions are made in the best interest of the client, whether senior or not," one practitioner wrote.

5. *In the last 12 months, have you encountered a client that was the victim of fraud or of being taken advantage of as a result of being a senior?*

Yes	27%
No	72%

6. *What measure(s) would most benefit seniors if introduced in your jurisdiction?**

Encourage policies that establish requirements for advisers specializing in giving advice to seniors	34%
Encourage policies that support the delivery of financial advice to seniors under a client first/best interest duty	60%
Increase supervision and enforcement of advisers working with seniors	28%
Approve *bona fide* designations for those specializing in giving advice to seniors	29%
Require understandable disclosures by advisers claiming expertise specific to seniors	35%
Other (please specify)	21%

** Respondents were permitted to check more than one option.*

Of those who provided comments to this question, many thought it could be difficult to isolate regulation or other measures to address only senior investor vulnerability. "Specifying seniors is vague," wrote one financial planner. "Does this mean we only protect those over the age of 60? 65? A disclosure to every client at each financial transaction whether the adviser is serving as a fiduciary or not is what is needed." Others felt that singling out seniors would be insulting to those of sound mind who were already savvy investors.

Others advocated strongly for increased education of seniors (and advisers!) on the latest fraud activity and threats, and to encourage seniors to seek a second opinion before making financial decisions.

Interestingly, one financial planner did not see a need to take any action. "I am not convinced fraud is a problem that needs to be solved," the person wrote. "How significant is fraud in terms of proportions relative to the broad market? I think the industry needs to do a better job convincing me there is a problem before I consider recommending any adjustments."

Since CFP professionals adhere to a code of ethics that requires them to place their clients' interests first, it's no surprise that the majority (60%) of respondents thought such a measure would benefit seniors. In FPSB's most recent job task analysis, CFP professionals indicated that adherence to an ethical code, acting in the best interest of the client in providing professionals services, and compliance with appropriate laws and regulations represented the most important tasks in the practice of financial planning.

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