SENIOR MOMENTUM

ESTATE AND WEALTH PLANNING FOR OLDER CLIENTS

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WHY ADVISE THE OLD? One reason being, there are so many of them. The U.S. Census Bureau projects that the U.S. population over 65 will double from 46 million in 2016 to over 98 million by 2060.

Secondly, they have a plethora of assets. In 2008, the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), and the North American Securities Administrators Association (NASAA), estimated that boomers controlled more than $13 trillion in household investable assets.

Most importantly, they need your help. Elderly Americans face a range of financial issues that are specific to their age-group, including making retirement assets last throughout their lifespan, fine-tuning a legacy for their families, making provisions for mental or physical incapacity, and protecting themselves against abuse, neglect, and fraud.

Seniors are a diverse market

It is hard to make generalizations about older investors, since these individuals come from every walk of life, level of education, employment, race, and ethnicity.

"I have very sophisticated clients of all ages. I have very unsophisticated clients of all ages," says Elyse Tyrell, a certified elder law attorney in Las Vegas. "But I do think it's important, when you're working with people over 65, maybe 75 and 80, that you make sure they understand what we're trying to do and they have the capacity to do it. You want to be certain that you are doing something that they want versus what somebody else is telling them to do or brought them in to do."

It's important, not to patronize the clients and talk down to them. In most cases they're just old, not mentally impaired. "I have clients well in their 90s and they're just spitfires. They're amazing, very sharp, very impressive," says Geraldine Tomich, a partner at the Las Vegas law firm, Marquis Aurbach Coffing, where she specializes estate planning, probate, trust administration and guardianship.

The importance of trust and understanding

Older investors require many of the same services as younger ones — investment management, estate planning, tax management — but the difference is that they do not have the time to make up for mistakes by earning more money. As a result, they need to feel that they can trust the people who advise them. Building a relationship comes first, before you suggest a single strategy or investment.

"I think every advisor should learn more about the clients, beyond paper, beyond money, because often times there's a lot of information you'll need in order to be able to fully advise them," says Tomich. "You can't just focus on – you have $500,000, and let me do this for you. You need to get to know them better, because those conversations can help put them in a better structure that will then gain more trust."

"A lot of the aging population in Las Vegas seem to have really nobody they trust," Tomich adds. "You have to have compassion for them -- genuine compassion."

Advisors may also have to adjust their presentations for clarity, eliminating unnecessary details and focusing on essentials when dealing with older clients. "Turning them off is very easily accomplished if they get overwhelmed with information and technicalities," says Tomich. "I find that, to their credit, my older clients generally do not sign anything they're not comfortable with. So if they're inundated with sophisticated planning methods and views and jargon that they cannot really relate to, they tend to just do nothing, because of fear."

"Even before getting to that point, it's important to gain their trust and confidence," she adds. "Eventually, even though they really somewhat don't understand certain things, they'll just trust their advisor."

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[1]The TrueLink Report on Elder Financial Abuse 2015. https://truelink-wordpress-assets.s3.amazonaws.com/wp-content/uploads/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf

Protecting from fraud and abuse

One risk that elderly investors face is criminal activity – including fraud, neglect, and abuse. TrueLink, a financial advisory platform, recently produced research that estimated seniors' losses due to fraud at $36.48 billion a year. Over a third (36.9%) of seniors are affected by these crimes in a five-year period.[1]

These types of crimes take three basic forms, according to TrueLink's report. In any given year:

- **$16.99 billion lost to financial exploitation.** This occurs when misleading or confusing language, combined with social pressure and tactics that take advantage of cognitive loss, are used to obtain a senior's consent to take his or her money.
- **$12.76 billion lost to criminal fraud.** These include telephone fraud and internet schemes such as the grandparent scam and the Nigerian prince scam, as well as identify theft.
- **$6.67 billion is lost to caregiver abuse.** This happens with a family member, a friend, a trusted advisor or a paid caregiver steals from an elderly person.

"I don't know how common elder fraud is, but it's definitely out there," says Tyrell. "I've seen the mailman have power of attorney over someone on his route. I've had a 70-year old man married by his 30-something housekeeper who didn't speak the same language as him and was literally taking him through the drive-through chapel here in Vegas."

Tyrell says that families can protect their older relatives by staying in touch. "It's important not to ignore each other. You have to keep an open line of communication," she says. "I'll talk to people who live in a different state from their parents and have come home to find out that the bank accounts are empty or so-and-so's on all the accounts with my dad. I'm like where have you been all this time? Why are you not a part of this. You need to have the conversation with both the parents and the children, so that everybody knows what's going on." Involving the family can help protect against outsiders, but what about when it's a family member who is misappropriating money, neglecting or even abusing an older person? "Sadly, I do see some clients who have put themselves in those positions where they are taking care of their adult children to their own financial detriment," says Tyrell.

Advisors are often reluctant to step into potentially fraudulent or abusive situations because of the risk of lawsuits. A recent survey by Investment News found that 62% of investment advisors have seen or suspected potential elder abuse, but only a little over half (56%) have reported it.[2]

Tomich encourages her older clients to surround themselves with a variety of people who can help them. These people include family members, friends, and professional advisors — so that different people can keep an eye on each other. "I always encourage them to have checks and balances, and this applies even if they have children or close family members in town who are watching out for them. Sometimes it's very hard to gauge family dynamics. Typically the abuser is a family member," she explains. "I always encourage them to surround themselves with professional advisors as well as family members, so somebody can always wave the red flag if they see some wrongdoing."

Preparing for incapacity and death

Even the healthiest older people need to make a plan for what will happen to them if they become physically or mentally disabled. The National Center for Health Statistics reports that 21.7% of adults over 65 are in fair or poor health and 6.9% of them require help with personal care.[3] Older people's health can change suddenly and without warning, yet many put off planning even in very late life.

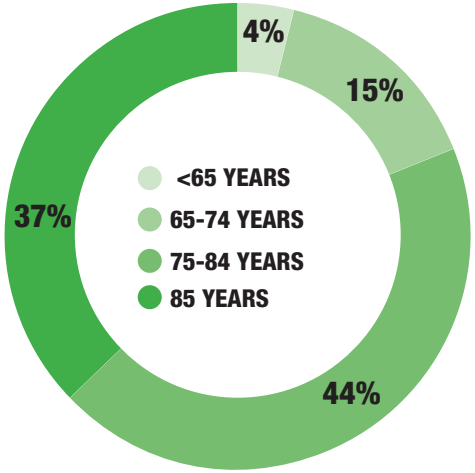
"If I can get to people early enough I encourage them to get long-term care insurance," says Tyrell. "A lot of times we can't, and they're coming to me more for crisis planning. My husband had a stroke and now he's in the hospital and now they're saying he can't come home. He's got to go to a nursing home."

In these situations, Tyrell will help by dividing assets between the person who's ill and his or her healthy spouse, so that the sick partner can eventually qualify for Medicaid, without exhausting his or her spouse's assets entirely.

Physical disability is difficult enough, but mental deterioration can be an even greater financial planning challenge. For one thing, it's hard to spot in its early stages, and for another the individual may resist diagnosis; yet dementia is very common among the very old. According to the Alzheimer's Organization, about 15% of people between 65 and 74 have Alzheimer's, the most common cause for dementia, but that percentage increases to 44% for those 75 to 84 years old before levelling off to 37% for those 85 and older.

Tyrell notes that attitudes towards dementia have changed, and just because an individual has started to experience cognitive decline does not mean that he or she cannot still make some decisions. She tells the story of a daughter who came to her for help because she had discovered her mother living at home in unsafe, unsanitary conditions. The daughter wanted to take her to her own home in Florida, and came to Tyrell originally seeking legal guardianship over her mother. The mother had a trust established by her late husband, and the daughter would need powers of attorney to draw money from the trust for her mother's benefit.

AGES OF PEOPLE WITH ALZHEIMER'S DISEASE IN THE UNITED STATES, 2016



Created from data from Herbert et al.[32,A4]

Source: 2016 Alzheimer's Disease Facts and Figures, Alzheimer's Association

[2] "Advisers on front lines in battle against financial abuse of the elderly," by Christine Idzelis, InvestmentNews, April 3, 2017. http://www.investmentnews.com/article/20170403/FEATURE/170339977/advisers-on-front-lines-in-battle-against-financial-abuse-of-the

[3] Older Person's Health, National Center for Health Statistics, Centers for Disease Control and Prevention, 2017. https://www.cdc.gov/nchs/fastats/older-american-health.htm

Tyrell explained that guardianship court would take 45 to 60 days to make a decision about the mother's competence in Nevada, and then if she were to be moved to Florida, the process would have to be repeated there. "And so I had her bring in her mom and sit down with her. I said to the mother, 'If you needed help, if you couldn't make a decision with the doctors who would you want to help you with that?' And she answered, 'My daughter.' So we talked it through and I felt very comfortable that, yes, she had early dementia, but she still was capable of executing powers of attorney, so we didn't have to go through the whole court system."

Tyrell adds, "I think it's just really important when people do estate planning or are meeting with an attorney that an attorney doesn't just do what somebody asks them to do. They really have to make sure that they're doing the right thing."

Estate planning in the later years

Most elderly clients have already done the basics of estate planning. They have a will with executors designated, as well as a living trust and other critical documents. Still a financial advisor, working with an estate attorney, can add value by making sure that older clients have kept their estate plan current. Tyrell says a thorough review is a good idea at any age.

"You want to make sure that powers of attorney are in place, their living will is in place, that they've designed whether they want life support or not, and whether they have special burial and cremation instructions," she says. "It's also important to make sure the people they're naming as executors and for other roles know they're named."

Older clients are living longer, basic trust and estate planning documents may need to be updated. "I've got people coming in who have had a trust for 20 or 30 years. They're realizing that they may need to update it and revise it," says Tyrell. "Maybe they drafted a trust when their kids were minor children and now they're parents and grandparents. Maybe they want to amend their beneficiaries. The whole idea is to get your affairs in order."

Keeping seniors' best interests in mind

Older clients can be pressured into investments that may not be suitable for them. Tomich says she sometimes meets with elderly clients who have been sold annuities – not an especially good bet for people who may only live for a few more years. "That's often a lack of integrity on the advisors' part," she says. "Unscrupulous advisors will just take the commission and throw them in a product that's really not going to serve them well."

To help protect older investors FINRA recently announced two new rules. The first would require advisors to obtain the name of a trusted contact person, who can be alerted in the event of unusual investment activity. The second allows firms to put a temporary hold on suspicious portfolio transactions, giving advisors time to investigate, contact the trusted contact, and if necessary in the case of fraud, involve law enforcement.

Working with senior clients requires patience, understanding, and above all a compassion for a generation that may no longer be as physically and mentally sharp as before. However, it brings rewards, says Tyrell. “My older clients are just so sweet. I become part of their lives, and they tend to lean on me and I just like that emotional aspect of it.”

The demand for corporate trustees

The increase in elder abuse cases in the United States has made the need for a corporate trustee more important than ever. A trustee acts in the highest legal duty of one party to another; a fiduciary. They must follow the duties of a trustee: The duty of loyalty, the duty to exercise care in administering the trust, and the duty to remain impartial to all the beneficiaries. Being named a trustee is not an honor, it is a job. Time and time again individual trustees breach their fiduciary duties by not correctly performing their responsibilities as trustee.

Corporate trustees have become a popular choice for many advisors and their clients. When your clients name a successor trustee to handle their affairs at incapacity or death, it is not a decision to be taken lightly.

As older investors continue to age you can see that there are many potential issues they may face. The importance of trust and understanding cannot be understated. As their trusted advisor, you may have to guide them through their cognitive decline, physical disabilities, incapacity, and potential elder abuse.

However, you do not have to go at it alone. **Premier Trust** can be your trusted partner to administer your clients trusts, while you continue to manage client assets. **Premier Trust** is an advisor-friendly trust company based in Nevada with offices in Las Vegas and Reno.

Their goal is to administer trusts, not manage investments. This allows them to partner with advisors across the country to provide independent administrative services.

Older investors may be a cornerstone of your advisory business, with their often-substantial assets, and need for sophisticated trust and estate planning services. They need a team around them that they can trust throughout all of life’s milestones.

For more information about partnering with Premier Trust, contact us at: 702-577-1777 or info@premiertrust.com