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**COMMISSION DES SERVICES  
FINANCIERS ET DES SERVICES  
AUX CONSOMMATEURS**

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## **FCNB FORUM ON SENIOR FINANCIAL ABUSE**

### ***Improving detection, prevention and response to senior financial abuse in New Brunswick***

Summary Report

The Financial and Consumer Services Commission's (FCNB) mandate is to protect consumers and enhance public confidence in the financial and consumer marketplaces. FCNB is responsible for the administration and enforcement of provincial legislation that regulates securities, insurance, pensions, credit unions, caisses populaires, trust and loan companies, co-operatives and a wide range of consumer legislation.

New Brunswick's aging population is a concern for FCNB and addressing the financial abuse of seniors has been identified as a key priority. The FCNB Senior Initiative is spearheaded by a cross-divisional committee of FCNB staff, known as the Seniors Team. The team was formed to explore possible initiatives within our mandate to combat senior financial abuse from a regulatory and educational perspective.

In the spring of 2015, FCNB embarked on a series of roundtable dialogues with seniors throughout the province to help better understand the issues, concerns, successes and challenges they have faced when accessing and using financial services and the experiences they may have had with financial abuse or financial exploitation. The [Senior Engagement Report](#) compiled the issues and comments that participants raised and was the foundation document for planning the next steps of stakeholder consultation. The Forum on Senior Financial Abuse took place on 16 November 2015 in Fredericton, New Brunswick. An important part of FCNB's Senior Initiative, this event was intended to support efforts of inspiring and promoting change in New Brunswick and to pave the way for more effective detection, prevention and response to senior financial abuse.

## **Event Overview**

This Forum brought together over 60 participants from key stakeholders, including financial and investment professionals, government officials and employees, lawyers, accountants, law enforcement, advocacy and special interest groups, medical professionals, caregivers and nursing home representatives, academics and researchers, educators, and regulators.

The forum brought together stakeholders to:

- Analyze the challenge and break down the bigger problem into manageable solutions;
- Create the foundation for a communication network, facilitate dialogue between agencies, and build relationships;
- Discuss the gaps, barriers and challenges, and issues they face when detecting and responding to financial abuse of seniors; and
- Share their experiences, best practices and develop solutions to address financial abuse of seniors in New Brunswick.

The goals and objectives of the Forum were:

1. *“Defining the challenge”* to raise awareness of the multifaceted issue of senior financial abuse through the sharing of knowledge, information, experiences and best practices.
2. *“Inspiring action”* to provide an environment for delegates to work together to identify gaps, priorities for action and recommended solutions in combatting senior financial abuse.
3. *“Committing to change”* to encourage and support delegates in their ongoing commitment to change.

Following welcoming and introductory remarks by master of ceremonies Rick Hancox, CEO of FCNB, the Forum agenda opened with keynote speaker Ron Long, Senior Vice President and Director of Regulatory Affairs and Elder Client Initiatives at Wells Fargo Advisors. Mr. Long shared his experience and insight on successful approaches to combat financial abuse of seniors in the investment industry through tactics including policy and procedural changes, improved communications and staff training.

A panel discussion followed with a diverse group of specialists who led a discussion on issues relating to the financial abuse of seniors from their areas of expertise: advocacy, regulatory and policy issues, prevention and education and communication. These areas of expertise mirrored the Forum themes and set the stage for the afternoon’s roundtable discussions.

The lunchtime speaker, Holly Jones, Nurse Manager for the Health and Aging Program at St. Joseph’s Hospital in Saint John, shared her personal experience with senior financial abuse.

## **Roundtable Discussions**

**“How do we effectively prevent, detect and respond to senior financial abuse?”**

Participants were asked to consider this overarching question further by participating in roundtable discussions. Participants then chose at which table they wanted to participate depending on the theme or themes they wished to discuss or that was most relevant to them. Each table was appointed a facilitator to lead the discussions and a note taker to record them.

**Advocacy/Navigating the System:** How can we improve the processes and overcome barriers to make it easier for seniors to access the services and support their needs to prevent and respond to financial abuse?

**Enforcement:** What is needed for our current protections to be more effective? How can we combat financial abuse that cannot be addressed by the criminal code?

**Regulatory Reform:** What legislative or regulatory reforms could be undertaken to prevent financial abuse and to hold perpetrators of financial abuse responsible for their actions? How can privacy issues be addressed to ensure that financial abuse is identified and perpetrators are held responsible for their actions?

**Prevention and Education:** What information or tools do seniors need to prevent them from becoming victims of financial abuse? What has (and alternately has not) been proven effective to reach seniors and provide the information they need in an accessible manner? Are there opportunities for collaboration on program delivery across the province?

**Improving Communication with Senior Clients:** How can we improve the way we communicate with seniors today? How do we communicate with seniors (who may have capacity issues) and their representatives (who may not be acting in the senior's best interest)?

There are no simple or straightforward answers to these questions. To respond to such a broad issue, a multidisciplinary and ongoing inter-agency dialogue and action is needed.

The following is a summary of the key issues and discussion points covered by participants during the course of the roundtable discussions.

### **1. Education and Training Needed to Help Recognize Financial Abuse**

The issue of recognizing and responding to financial abuse was a thread that ran through the discussions at each of the roundtables. Participants felt there was a need to raise awareness and knowledge of financial abuse—from a senior's point of view, a service provider's point of view and a law enforcement point of view. Low knowledge of signs of senior financial abuse coupled with the lack of a standard legal definition of "financial abuse" or even a definition of who was a "senior" creates significant challenges when trying to raise awareness of how to respond to financial abuse.

A key component of this challenge is the ability (or inability) to identify warning signs (red flags) and potential issues that could signal financial abuse. Employees in organizations and agencies who work with seniors may receive little or no training on preventing financial abuse, such as training in recognizing the key issues and early warning signs of financial abuse. Low awareness regarding financial abuse against seniors, both in individuals within the enforcement community as well as in the general public, could also be a cause of low reporting due to incorrect classification of financial crimes against seniors. This is particularly an issue since there is no consensus on who is a "senior".

Participants discussed the relationship between caregivers and seniors, and the level of trust that is developed which could, in some cases, be exploited to the point that the senior is hesitant or afraid to report financial wrong doing in fear of being left without a primary caregiver. Participants raised questions and discussion around the opportunity to develop or add content on recognizing and responding to financial abuse in the training materials caregivers receive and whether or not a registration regime to protect both caregivers and the seniors they serve would be beneficial.

There is an opportunity for improvement here as many of those who work in a position of trust with seniors such as law enforcement, healthcare service providers, care givers and financial professionals are in a prime position for early detection of the signs of potential financial abuse if they are equipped with the knowledge to detect and respond to the situation at hand.

## **2. Accessibility and Effectiveness of Communications**

Participants felt that many issues related to financial abuse among seniors were caused by lack of awareness of the problem or the tools, resources and programs available to address financial abuse. Participants recognized that even if seniors and service providers are aware of what does exist, these tools and resources will not be used if they are not available in an accessible format for seniors.

There was discussion around opportunities to improve efforts to communicate important messages and information with seniors. Effective communication is extremely important in preventing frauds, scams and abuse. For example, informing seniors of the latest frauds or scams particularly targeting seniors, and how to avoid similar threats, can avoid abuse before it happens.

In the course of their work, participants have heard many seniors say that information presented only in electronic format was not useful to them. Seniors may not have (or want) access to internet or computer resources, and preferred to have physical copies of documents to refer to. Seniors also expressed the need for service providers and information to be available where they live, available in multiple mediums and formats and disseminated through services they use in their community (such as newspapers and TV news) in order to be most accessible.

Further, seniors and service providers alike shared that it is often the same people showing up to participate at in-person events. Participants agreed on the importance of finding ways to reach isolated seniors who may be at higher risk of abuse and exploitation.

Service and information providers expressed a need for more research on seniors in New Brunswick; specifically information that would provide a better understanding of literacy levels, current needs, and the scope of issues that need to be addressed to provide assistance to seniors. Armed with access to this type of information, service and information providers felt they would be better equipped to develop and provide access to quality preventative and early intervention resources and programs.

## **3. Changing the Culture of Ageism and Stereotypes**

Discussions also turned to future facing considerations. Participants discussed how we will, as a province, address the cultural shift needed to make combating senior financial abuse a priority. Many participants felt strongly that ageism, stereotypes of seniors and poor intergenerational relationships are contributing factors in fostering a potentially abusive environment.

Participants also identified that the perception of financial abuse as a “family issue” needs to change. This perception leads to seniors, in some instances, not believing or accepting that what they are experiencing is, in fact, financial abuse. It can also lead to low or no reporting of serious cases for fear of damaging family relationships, or because outsiders don’t want to interfere in another family’s affairs.

There was much discussion about educating the “seniors of tomorrow”. Without this proactive approach, participants expressed concerns that future seniors would be at a distinct disadvantage in preparing for their future financial security given that seniors are: living longer, more active, staying in

their homes longer and may have family who have moved away. A one-size-fits-all approach will not work, given that seniors are a diverse group who have different needs at different stages. Education needs to occur at all stages of life: in school aged children, in university and college programs, in the healthcare community, in the financial community and with seniors themselves, to be most effective.

#### **4. The Need for New Brunswick Focused Research**

There currently is a lack of New Brunswick focused research on seniors to rely on to develop provincial policies to address issues facing seniors, including financial abuse. There is no general consensus on who is considered a “senior”. Seniors, like other large age groups, are not a homogeneous group. They have different health requirements and diverse income levels. Participants identified specifically that more research is needed to understand seniors’ accessibility issues, to understand the nature of seniors’ cognitive impairments and the age those impairments become an issue, seniors’ investment expectations and seniors’ ability to recover from financial losses.

More research will ensure that new initiatives are based on valid research. Participants recognized that research could be used to establish benchmarks to track the progress of new initiatives, and help in understanding the causes of financial abuse and the impact of financial abuse on victims.

#### **5. Enforcement of Financial Abuse of Seniors**

One of the primary issues identified regarding the enforcement of financial crimes committed against seniors was the issue of competing priorities that exist when considering enforcement action.

It was suggested that resource allocation in many organizations is largely evidence based. Consequently, an underlying issue in the development of special enforcement programs is the lack of empirical evidence demonstrating that senior financial abuse is a pressing social issue that should be a priority for enforcement agencies. A lack of specialized expertise in enforcement and other agencies can directly affect accurate reporting. A scenario provided as an example was of law enforcement officers who feel intimidated by the concept of financial crime and are therefore uncertain on how to appropriately respond to complaints relating to this issue. The lack of expertise was not only endemic to front-line officers, but was also an obstacle for crown prosecutors and members of the judiciary. While this specific example discussed the context of law enforcement, lack of specialized expertise in recognizing and responding to financial abuse was a point that was brought up across many industries throughout the course of the other roundtable discussions.

#### **6. Accessing Information, Programs and Resources**

Many participants commented on the number of federal and provincial government agencies, and private and public services available to seniors being offered in relative silos, without knowledge of other services or programs available. The complexity of the services available poses additional challenges for seniors and can create a barrier to accessing these services. Many participants commented on the need for a centralized contact centre or “one-stop-shop” to help direct seniors to the appropriate services or resources available to meet their needs.

Participants discussed how a network or centralized contact resource centre could benefit service and resource providers. Breaking down silos and broader sharing of information pertaining to available programs, services, or issues that seniors are facing would help reduce confusion and challenges in accessing services, minimize duplication of efforts, and allow leveraging of subject matter experts and resources. By leveraging the collective experience of service providers, a network or centralized contact centre could also provide a mechanism for collaboratively developing, accessing, and sharing information and programs using consistent language, tone and delivery channels that have been proven to be successful in the past.

## **7. Legislation and Policy limitations and opportunities**

Participants discussed gaps in areas of policy and legislative development. Financial abuse is not recognized in the *Family Services Act* as abuse, and as a result, there is no authority to intervene in situations involving financial exploitation unless it is accompanied by abuse or neglect as defined in the *Act* (such as physical or sexual abuse, or mental cruelty). In situations that involve solely financial abuse, authority to intervene depends on the nature of the abuse, the willingness of the victim to receive assistance or protection, and the victim's level of mental competency. This is a barrier to prevention and response where the financial abuse not accompanied by other types of abuse, and where the victim is mentally competent. Many victims of financial abuse are mentally competent but may refuse to accept services for various reasons.

Participants discussed the process, under the *Infirm Persons Act*, to have a person declared a *mentally incompetent person* in an effort to stop financial abuse. The process requires proof that the subject is mentally incompetent and involves proceeding by way of court process. This process is accessible only to those with financial means to pursue a matter in court, and where the victim of abuse is mentally incompetent. The court process may be a barrier for many trying to stop financial abuse in progress. The court process may not be timely and potential financial abuse may continue, notwithstanding the pending court procedure. Consequently, significant amounts of financial assets could be at risk.

## **8. Reporting Financial Abuse**

Participant discussed the many contributing factors to low or incorrect reporting of financial abuse. In addition to the causes already discussed, participants recognized that part of this may be attributed to the social dynamics between the abuser and the victim, who often know each other, and the stigma associated with being a victim of financial abuse. However, a large part of the discussion, centred on privacy and confidential information.

Participants discussed certain professions that deal with confidential information in relation to seniors such as lawyers and doctors. From the discussions, there appeared to be confusion on what rights, protections and obligations professionals had in disclosing information related to possible financial abuse while being compliant with privacy legislation. There is risk that financial abuse is identified by certain professionals but not communicated because of a reluctance to become involved due to this uncertainty.

Participants voiced concerns regarding the lack of protections for the person reporting the financial abuse. The person reporting may have identified the financial abuse during the course of their work, which may be confidential or considered protected information under privacy laws and restricts them from reporting potential abuse. Health professionals have protection for reporting suspected abuse under the *Family Services Act*, but since financial abuse is not recognized as abuse under that *Act*, there is no protection for reporting financial abuse. While privacy legislation may allow for disclosure of personal information in certain circumstances, participants believed it was still unclear what protections were available and if these exemptions were adequate when reporting suspected financial abuse.

Participants noted that not all instances of senior financial abuse are clearly criminal in nature. The group identified various potential violations under the *Securities Act* as an example of this. In such instances, the representatives from the various police forces indicated that files will be referred to other regulatory agencies, such as the FCNB or Social Development for review. The group underscored the challenges that they often faced when trying to refer matters relating to senior financial abuse due to limitations and gaps in existing adult protection legislation.

### **9. Issues with Power of Attorney**

Participants recognized that a power of attorney (for property or healthcare) is a useful tool for personal and financial planning, but that it also could be (and is) exploited. Although every province and territory has legislation in relation to powers of attorney, there is considerable variation among these statutes, and there is an opportunity for harmonization (in fact as participants noted, there have been efforts by various law reform agencies to do so in the past). Participants identified that financial abuse among seniors is often perpetrated by those entrusted to protect seniors, such as those acting under a power of attorney or family members, and that the costly process of challenging a power of attorney when the donor no longer has capacity.

Discussions on the challenges of power of attorney centered on low awareness and appreciation for the power of this tool. This included not knowing about the tool itself, not having a full appreciation for how it works, how it can be revoked, what powers the donor is giving the attorney, and the ability of the Public Trustee to step in.

### **10. Industry Best Practices**

Participants discussed the need for organizations and businesses to incorporate some common best practices into their policies and processes in order to prevent financial abuse in seniors.

Not all regulatory bodies provide their registrants or licensees with procedures or guidelines to follow in cases of suspected financial abuse. This is problematic for industry participants who recognize something is wrong, but do not have the tools to respond or direct their clients to the appropriate enforcement or regulatory body.

## **11. Competing Priorities and Limited Resources**

Participants discussed the challenges faced by organizations that have a mandate directly related to the protection of seniors from financial abuse. As the baby boomer generation ages, the demand for the services offered by these groups is significant and grows day-to-day. Dealing with this growing demand without similar growth in resources can limit an organization's ability to focus on critical policy work when resources are fully dedicated to crisis intervention and provision of protective services.

Participants suggested that having the ability to address the needed policy work could create efficiencies and better position organizations to deal with the current and future demographic challenges. However, organizations that are already overwhelmed by the growing expansion of their day-to-day protective work are not currently well positioned to take advantage of this short window of opportunity.

## **12. Changing Family Dynamics**

In previous generations, financial management would traditionally be the responsibility of a family member. Now families are spread out and single seniors may not have children or other family members to take care of them. As a result, the senior may be left wondering who can take care of them. Many seniors are reluctant or fearful to ask for help and may not trust a non-family individual.

It can be understandably difficult for seniors to ask for help for fear of having one's independence taken away. There is a need to reduce the stigma of asking for help and to provide information on alternatives that are available to seniors so that they do not fear being stereotyped as a burden or helpless and are comfortable asking for help.

There is also a perception that financial abuse of seniors is an issue that should be kept private or within families when in fact the abuse is often being perpetrated by a family member. Participants recognized the need to alleviate the fear of the repercussions of reporting suspected financial abuse.

## **Ideas Generated**

During the roundtable discussions, participants were also asked to brainstorm ideas that address the issues they identified. These ideas further underscore the importance of a multi-disciplinary, collaborative approach to dealing with the issue of financial abuse of seniors. Skill sets for further exploring these ideas exist across various organizations, government departments, regulators and industries.

The FCNB is reviewing these ideas and considering initiatives to support and champion going forward. The Seniors Team is preparing a report of FCNB seniors initiatives and developing a strategy to address senior financial abuse, develop proactive solutions and programs in the areas that we regulate and leveraging the skill sets and resources available.

## **Training**

1. Develop training resources or programs to help staff recognize and respond to financial abuse for groups such as: medical and healthcare staff (doctors, dental hygienists, nurses, admitting

staff, etc.), caregivers (in home, nursing home), law enforcement (police, academies, etc.), financial service providers (advisers, front line staff, sales etc.)

2. Regulatory agencies: develop best practices, guidance or procedures for their respective registrants or licensees to follow in cases of suspected financial abuse of seniors.
3. Post-secondary and training institutions: include curriculum for students so they are equipped to recognize and respond to potential abuse situations when they are in the field as doctors, nurses, pharmacists, other medical professionals.
4. Have an annual forum, similar to the FCNB Forum on Senior Financial Abuse, to explore and report on issues surrounding senior financial abuse and financial exploitation.
5. Participate in other existing education and awareness raising conferences, training sessions, etc. to keep the discussion alive, raise awareness of the issue, gather more interested participants, present efforts and progress etc. (i.e., White Collar Crime Symposium, CBA mid-winter, Canadian Association of Provincial Court Judges, CPAs annual meetings.)
6. Develop train-the-trainer sessions for existing seniors groups and volunteer centres to implement outreach programs in their areas (similar to the ABCs of Fraud model) including user-friendly program literature for senior groups so that they spread consistent information in their home areas.

### **Legal & Policy**

1. Amend the *Family Services Act* to include financial abuse in the definition of abuse.
2. Define who is a senior or what is meant by senior financial abuse.
3. Evaluate the feasibility and potential effectiveness of either developing a specialised mediation program housed within Social Development or the creation of a specialised administrative tribunal, or both, to address criticisms of the current process relating to senior financial abuse (such as challenging a power of attorney).
4. Research benefits of a training/registration/licensing regime for caregivers.
5. Establish a position that provides process improvement and policy analysis services to help with policy development in organizations and government departments who have identified gaps in policy but who are resource strapped.

### **Enforcement**

1. Identify areas in legislation where there is an opportunity to strengthen repercussions for those that perpetrate financial abuse on seniors.
2. Develop a strategy to foster greater interagency cooperation between police forces and other regulatory agencies such as the FCNB and Social Development with a view to developing a framework under which joint investigation efforts can occur with greater ease.

### **Reporting**

1. Examine privacy legislation to determine the barriers to reporting incidents of potential financial abuse.
2. Examine and evaluate mandatory or permissive reporting schemes as possible legislative frameworks for reporting financial abuse, and protecting those who report financial abuse.
3. Examine and evaluate the development of legislation that requires mandatory reporting of suspected financial abuse for employees or operators of senior care facilities, others providing care, support services and related assistance, financial service providers, and persons acting as substitute decision-makers or committees.
4. Consider provincial privacy legislation that would meet the “substantially similar legislation” requirements of PIPEDA which would apply in New Brunswick.

5. Develop and update protocols for preventing, identifying and responding to reports of financial abuse.

### **Single Point of Contact/Network**

1. Establish a multi-purpose stakeholder network (modeled on FCNB's Financial Education Network) to establish a central source for seniors to seek information on protecting their finances or to report incidents of financial abuse.
2. Create a user-friendly, trustworthy and easily accessible point of contact which may include: a repository of information/database, a centralized contact centre, library resources, contact lists of service programs and providers etc.

### **Research**

1. Conduct an environmental scan to identify existing research on senior financial abuse and to reach out to organizations who have or are interested in research on seniors and specifically on protecting, preventing, identifying financial abuse in seniors.
2. Conduct research in New Brunswick on senior financial abuse and financial exploitation (to establish benchmarks, measure effectiveness of programs and demographics).

### **Power of Attorney**

1. Work with PLEIS to develop, distribute and promote a Power of Attorney brochure/workbook available from PLEIS and FCNB.
2. Engage with Canadian elder law section of the Canadian Bar Association – New Brunswick Branch to centralize power of attorney legislation in New Brunswick.
3. Participate in inter-jurisdictional initiatives to evaluate options for harmonizing power of attorney legislation among interested jurisdictions, and to consider a standard form of power of attorney, and a power of attorney registry.

### **Stigma, Stereotypes and Culture Change**

1. Develop an ageing strategy with goals to improve intergenerational relationships.
2. Explore existing models and implement K-12 educational program development for students of all ages.

### **Communication and Educational Resources**

1. Develop standards or best practices for accessibility and usability of print and online resources targeted to seniors.
2. Expand reach of messaging and tools/resources through partnerships with organizations and service providers seniors use regularly.
3. Develop a resource to support adult children talking to their parents about money management, financial decisions, and estate planning.
4. Identify opportunities for providing content to senior publications in the province (i.e., Choices After 50).
5. Develop a public awareness campaign to educate population on the issue of the financial abuse of seniors.
6. Redesign the Seniors Toolkit in partnership with PLEIS.

## **Conclusion**

FCNB is very pleased with success and outcomes of the Seniors' Forum. Certainly, the comments from participants were extremely positive with encouragement to make the Forum a regular event. Participants were engaged, forthcoming and eager to discuss issues of senior financial abuse in their respective sectors with many volunteering to participate in activities going forward. From the Forum, many ideas for combatting senior financial abuse were generated – some short term, others long term with various resource requirements. FCNB, as a financial services regulator and educator, is in a unique position to assist in implementing or championing some of these ideas. The Forum is an event from which we can build productive partnerships for combatting senior financial abuse in the future.