The Financial Landscape for Older Americans

What are the issues?

What do they mean?

What I'm going to talk about …

A little background

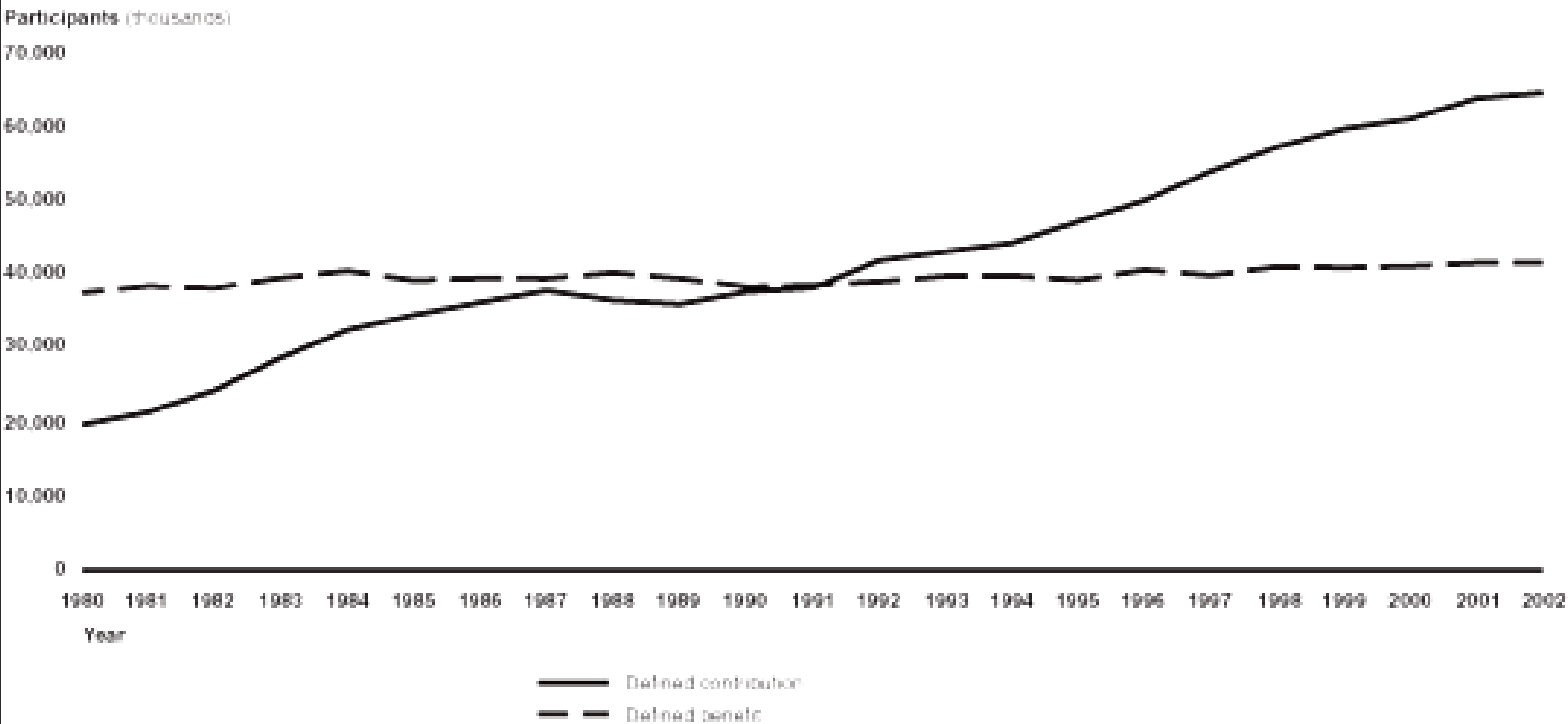
Some statistics

A little about changes in financial products and services are sold

Our Changed Retirement Environment

- A change in the three-legged stool
- Shift to a do-it-yourself retirement preparation
- Over the 22-year period between 1980 and 2002, private sector employees covered by:
  - A defined contribution (e.g., 401k) plan exploded from 20 million to 65 million
  - A defined benefit (traditional pension) plan remained relatively flat, going from 38 million to 42 million

  - Source: U.S. Dept. of Labor and Government Accountability Office



Number of Participants in Defined Benefit and Defined Contribution Plans
1980 to 2002

- Source: U.S. Government Accountability Office and Department of Labor

Increase in Number of Older Americans

- First boomers reached age 65 in 2011
- Last boomers reached age 50 in 2014
- Last boomers reach 65 in 2029 … only 13 years from now
- First Gen Xers reached 50 in 2015 or 2016
- Boomer population 71 million
- Gen X population 41 million

More on the Number of Older Americans – U.S. Population Statistics

- **TOTAL U.S. POPULATION – 308.7 Million**
- Ages 50 – 64: 58.8 million
- Ages 65 – 74: 21.7 million
- Ages 75 – 84: 13.1 million
- Ages 85 – 94: 5.1 million
- Ages 95 and over: 425,000

Confusing Array of Financial Products and Services

- Banking
  - Transactional Accounts and Investment-Type Accounts
  - Loans (Mortgages, car loans, unsecured loans, including credit cards)
- Insurance
  - Life Insurance
  - Annuities – Immediate, Deferred, Fixed, Variable
- Securities
  - Individual Securities (Stocks, bonds, etc.)
  - Pooled Investments (Mutual funds, REITS, ETFs, etc.)
  - Advice

What Changed?

- Shift to defined contribution plans increased the importance of advice about moving money out of the plans.
- DOL rulemaking focuses on this type of advice.
  - White House Council of Economic Advisors says Americans lose $17 billion to conflicted advice annually
  - And an average of a 1 percent loss on returns

DOL Revised ERISA Rule
What is now covered?

- Recommendation about the investment of securities or other property after rolled over or distributed from a plan or IRA.
- Recommendations about the management of securities or other property
- "Recommendation" based on and consistent with FINRA definition.
- Recommendation must be in exchange for a fee or other compensation.

DOL Rule
What is not covered?

- Education about retirement savings or general financial or investment information
- General Communications
- Communications with plan fiduciaries
- Transactions with independent plan fiduciaries with financial expertise
- Swap and Security-based swap transactions
- Covered by an exemption
  - Prohibited Transaction Exemption (PTE)

DOL Rule
Best Interest Contract Exemption

- BIC or BICE; it's the same thing.
- Allows individuals providing fiduciary advice to receive payments that create conflicts of interest without a PTC.
- Allows firms to continue to rely on many current compensation or fee practices under certain conditions.

DOL
BICE Contract Requirements

- Financial institution and adviser must give prudent advice in participant's best interest.
- Institution must have policies and procedures to mitigate conflicts and disclose information about the conflicts and the cost of advice.
- Must have a statement of the types of compensation the firm expects to receive from third parties.
- Investors can get more information upon request.
- Enforceable through breach of contract claim (for IRAs and other non-ERISA plans) or under ERISA (for ERISA plans, participants, and beneficiaries)

A Couple More Things about the DOL Rule

- PTE Will have allow insurance agents and brokers, and insurance companies, to receive compensation for recommending fixed annuities to plans and IRAs
- Phased-in applicability
  - April 2017 Publication of Final Rule
  - January 1, 2018 for BICE and PTE

The real reason DOL fiduciary is big – Remedies .

- FINRA – Regulatory Complaint or Arbitration
- Investment Advisers Act – Regulatory Complaint to SEC or State Securities Administrator
- DOL – Regulatory Complaint or Private Enforcement through the Courts (includes class actions)
- DOL BICE – Private Enforcement through the Courts (includes class actions)

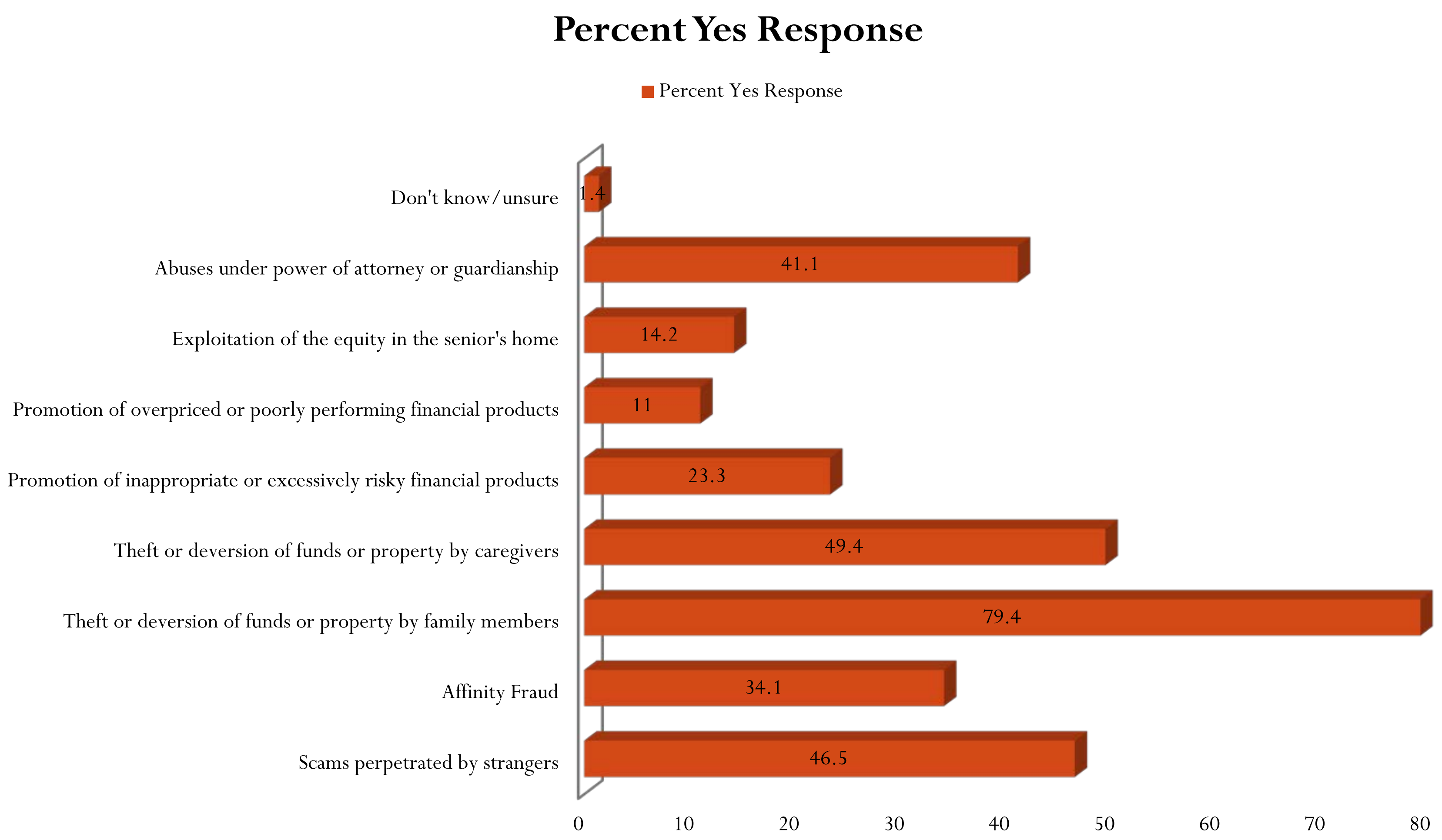
Incentives for Financial Institutions to Report Financial Exploitation

- Shielding financial firms for holding transactions to investigate and/or report exploitation
- Three states have passed legislation
  - Washington (2010)
  - Delaware (2014)
  - Missouri (2015)
- State Securities Administrators (NASAA) has adopted a model law
- FINRA Rule

Recommendations for Good Shield Law

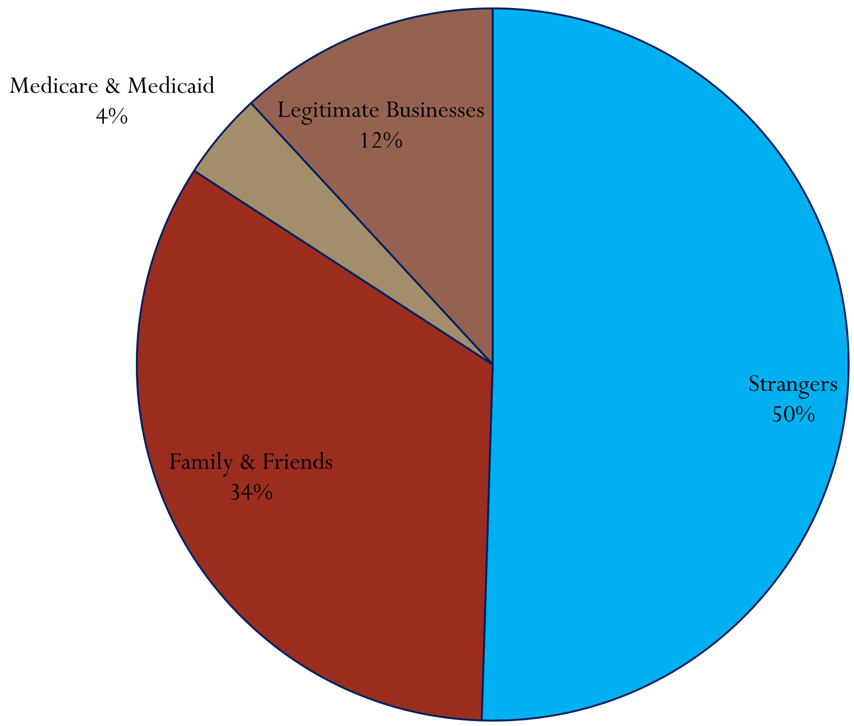
- Reasonable initial hold period to allow for the firm to stop a transaction before the money is gone
- Mandatory reporting of suspected cased of financial exploitation
- Ability to extend the hold, with court approval, and including other court-ordered injunctive relief
- Shielding the financial institution and its employees ifn the acted in good faith and with reasonable care
- Covering all financial services firms
- Training for employees
- Reasonable effort to obtain emergency contact information

2012 Investor Protection Trust Survey of Professionals & Caregivers



2011 MetLife Study – Who Committed Crimes against the Elderly

Who were the perpetrators in the MetLife Study?



Questions?

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