# Summary of the report

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## CONTEXT OF THE STUDY

The elderly segment of the population is continuing to increase (15% of the French population will be over 75 by 2040): this segment is characterised by high levels of wealth and reduced diversification in the financial products held compared to other age groups. The marketing of financial products to older adults sometimes leads to inappropriate or even abusive sales. This report builds on the work conducted by the joint unit of the *Autorité des marches financiers* (AMF – Financial Markets Authority) and the *Autorité de contrôle prudentiel et de résolution* (ACPR – French Prudential Supervision and Resolution Authority), and analyses the sale of products to an ageing population, with the aim of promoting good marketing practices towards the elderly. The report focuses, in particular, on the grey area of vulnerability that lies between a state of full legal capacity, allowing a financial decision to be made based on informed consent, and a state of legal protection, such as that of adults under guardianship, which is the highest level of protection. Within this grey area we find those who, while considered legally competent, may have difficulties producing informed consent.

## OBJECTIVES AND METHODS

The present survey, sociological in nature, focuses on the ways in which financial products are marketed to wealthy older adults. We looked at three dimensions: the institutional framework for marketing practices; customer categorisation methods; and the manifestation of organisational risks. We analysed the categories used to refer to senior customers and identified some of the limitations of the term "vulnerability". We also looked at how financial products are marketed and how the ageing of customers affects institutions' processes and organisation. Finally, we identified existing good practices and looked at their advantages and limitations.

We opted for a qualitative methodology, conducting **73 semi-structured interviews** with professionals from retail banks, private banks and insurance companies; with independent wealth management advisors; and with regulators and consumer and senior citizen associations. These were complemented with documentary research, the collection of public reports and internal documentation from the institutions, and **ethnographic work** consisting of visits to several branches of a private bank (37 days of observation, as well as 22 interviews with senior staff at the bank, and 17 interviews with employees at the bank's branches).

## I. DEFINING VULNERABILITY

Apart from the status of persons under legal protection measures, no single criterion can define vulnerability: neither age, nor health status, nor working (or retired) status. Moreover, the fact that a customer's capacities are diminished does not mean that they are no longer able to make decisions. Their needs do, however, differ from those of more autonomous customers. Both institutions and regulators are still looking for the right tools to deal with senior customers.

The challenges posed to banks by older customers are multiple. It is a segment of the population that holds a large volume of assets (according to André Masson, in 2015, the over-60s owned 57% of overall financial wealth in France). Their assets are more frequently financial than those of other segments. They also have a very specific customer profile, characterised by a need for liquidity, a desire to avoid exposure to risk – particularly in preparation for the transfer of assets – but at the same time an interest in growing their assets.

The marketing of financial products to older customers poses specific difficulties for financial institutions, as they have to ensure the validity of consent given by customers whose mental and physical capacities may be declining, but without having any tools to measure this decline. They also have no legal rules for dealing with those in a “grey area”, where they are not covered by legal protective measures but nevertheless require increased attention in certain regards. This need for attention is also difficult to combine with the high demand for productivity placed on bank employees.

We identified three main risks in this regard:

- The risk of being accused of engaging in an inappropriate sale or in an abuse of weakness if the consent is not deemed valid.
- The risk of being accused of discrimination if customers' abilities are not taken into consideration.
- The risk of losing customers in the event of customer dissatisfaction.

## II. THE FRAMEWORK IN WHICH FINANCIAL PRODUCTS ARE MARKETED TO SENIORS

The retail banking business is structurally conflicted between its duty to advise and its for-profit nature, which is driven by commercial objectives.

Provided financial advisors have time to establish a rapport with their customers, they can build up experiential knowledge that enables them to determine which customers are no longer able to make informed investment decisions. However, the organisational methods of banking institutions sometimes prevent them from doing so – commercial pressures and high rates of job turnover were identified as the two main forces making it difficult to gather this experiential knowledge.

The extent to which situations of vulnerability are detected varies depending on the customer and the institution. Financial advisors pay varying degrees of attention to financial practices and to the ability of customers to engage in commercial transactions. The social characteristics and behaviour of customers when interacting with their advisor are important factors in determining the level of attention they receive. Financial advisors do not have a specific relationship model for interacting with older customers, even though their needs and practices differ from those of other customers. Instead, they expect them to adapt to the bank's modes of interaction rather than offering them a specific service.

The most attractive customers for bankers are those that combine significant assets with a ready acceptance of the proposals made to them. These are customers whose vulnerability can be detected most easily, but who are also more exposed to risk due to the increased commercial pressures exerted by bankers.

Even when situations of potential vulnerability are detected by financial advisors, these situations are highly complex, particularly those relating to the preservation of social ties, which may lead customers to accept transactions that border on abuse of weakness in exchange for the company of a family member or a person providing services. This makes it even more difficult to judge whether their consent is informed. Our research shows there is a need to determine good practices collectively, so as not to leave financial advisors without the necessary tools when faced with highly complicated situations.

## III. What are the solutions?

Financial advisors occupy a unique position: they interact with customers and witness their difficulties while also playing the dual role of advisor and seller. They highlighted two main issues: on the one hand, the contradiction between the demand from their managers that they pay special attention to senior customers, and employee appraisal methods which are based on commercial success; on the other hand, the difficulty of judging situations on their own and the need to exchange and share information.

Bank employees have several tools at their disposal.

• The MiFID and IDD questionnaires: observations of interviews between financial advisors and customers suggest that these legal provisions are more of a hindrance to commercial activity than a help in ensuring that the products on offer match the needs of customers. Investor questionnaires are sometimes subject to modifications and workarounds that mean that they no longer serve their original purpose.

• Bank reputation: institutions, particularly when dealing with customers with significant assets, are careful to protect their reputation. This is one of the arguments frequently used to justify paying special attention to older customers – the Bettencourt scandal is a prominent example. Bank employees also stress professional ethics and standards as reasons for adopting good practices, but it appears that it is only their personal ethics that keep them from engaging in malicious behaviour or abusive sales.

• Existing good practices: some institutions have set up training courses, in partnership with specialised organisations, aimed at improving the skills of employees in identifying losses of autonomy and the specific needs of older adults. Others have set up regulatory committees to which employees can present the more complex cases they encounter. Finally, some institutions have appointed referent advisors.

• Changes in marketing methods:

- Reinforcing security for online accounts to ensure customer identity and consent.
- Involving managers in uncertain situations with senior customers.

• Other good practices are encouraged by associations:

- Strengthening partnerships with other actors involved in the protection of older adults (notaries, adult protection officers, associations).

- Reporting cases of vulnerability to the French Public Prosecutor or alerting attending physicians. However, provisions regarding professional secrecy in current legislation greatly limit these options.
- Encouraging the use of the future protection mandate.

## IV. Recommendations

**To meet the needs of senior customers, commercial transactions should be better tailored to their specific characteristics.** Their needs are technical (adaptation of information and communication tools, specific financial products), and relate to their interactions with the institution (sufficient length of interaction, stability and continuity of relationships with advisors).

**Proposal 1: Integrate the notion of financial disengagement**

To better understand the behaviour of older customers, we propose classifying them as being in a process of disengagement. The notion of "disengagement" is defined as the "process of reorganising one's life" (Clément and Mantovani, 1999) which leads to a relinquishment of pre-existing social commitments (Caradec, 2001), with the aim of preserving, as far as possible, a person's social identity despite the changes they face.

To put this notion into practice and tailor it to the challenges encountered in marketing financial products, we list some of the types of disengagement that we were able to identify in the course of our survey:

- Disengagement from banking practices: reduction in the use of means of payment and in contact with institutions.
- Interactional disengagement: reduction in interpersonal skills, isolation.
- Financial disengagement: reduction in interest in investment activities, tendency to "self-surrender"

**Proposal 2: Know your client**

- Tailor the conditions in which investor questionnaires are conducted. Drawing on the Accessibility Directive, comply with the obligation to take disabilities and the effects of ageing into account in the formal presentation of questionnaires and ensure that the results are shared with customers.
- Make sure the questionnaires have a qualitative value, in addition to their quantitative objectives.

**Proposal 3: Adjust the internal organisation**

It is essential to better equip financial advisors (with good practice guidelines, training, etc.) and create collaboration spaces where they can report suspicious situations and share thoughts with colleagues and/or experts on the decisions that need to be made. It is also important to think about designing specific marketing methods adapted to older customers.

- Create spaces for collegial discussions;
- Designate a vulnerability advisor at all institutions;
- Provide regular training;
- Establish periodic internal audits;
- Design an operational service to give customers perceived as vulnerable or at risk easy access to financial advisors to better manage their financial affairs.

**Proposal 4: Detection of disengagement and prevention of conflicts of interest**

The bank is a commercial entity whose employees have (collective) sales objectives. It is necessary to adapt these objectives to the specific needs of older adults, to better protect them from vulnerabilities stemming from their disengagement:

- Adjust objectives to different types of customer portfolios and ensure a weighting according to the percentage of older customers covered.
- Make qualitative goals more objective and review the scope of quantitative goals. Include the consideration of customer disengagement in bankers' professional objectives.
- Reflect on how to ensure a second opinion on customers in specific categories.
- Examine the possibility of making it mandatory to involve a notary in risky financial transactions (especially regarding changes in beneficiary clauses).