Summary of bilateral interviews held by the Autorité de Contrôle Prudentiel et de Résolution (ACPR) and the Autorité des Marchés Financiers (AMF) on progress made by institutions in marketing financial products to vulnerable elderly people

Most of the institutions interviewed had taken into account the vulnerability of elderly customers in the marketing of financial products, although to varying degrees. They had implemented actions to identify this vulnerability and to assist financial advisors in managing relations with these customers. It is obvious that the financial advisor plays a central role in the relationship with vulnerable elderly people; as a result, the main focus for the institutions encountered was on developing support measures for advisors.

However, this cannot be the only bulwark against the risk of inappropriate marketing to an ageing client population.

For this reason, some institutions have sought to develop a more comprehensive approach based on the three paths recommended by the AMF and the ACPR, understood as a coherent and holistic whole.

Noting the wide disparity in the implementation of measures by institutions, the authorities encourage all institutions to continue their efforts to provide due protection for vulnerable elderly customers, who were specifically addressed in the bilateral interviews.

The ACPR and the AMF reaffirm the importance of developing preventive action by training advisors and setting up Referral Managers who can be organised on an individual or collective basis. They also stress the need for institutions and groups to include a proactive policy in their inspection programmes to prevent the risk of inappropriate marketing to vulnerable populations. They advocate that this preventive action be organised as part of an appropriate governance system, that notably includes regular reporting to decision-making bodies on the outcomes of the actions taken (analysis of the system put in place, results and malfunctions identified, measures/changes planned or implemented). The practices described below may be a useful source of inspiration that the authorities would like to share with the financial community with a view to increasing such active vigilance.

Since 2018, the ACPR and the AMF have been working on the marketing of financial products to vulnerable elderly people. The aim of this work is to provide greater security for all stakeholders and to limit the risks of inappropriate marketing for these customers and of litigation for financial institutions. The initial work carried out in 2019 led to the publication in April 2021 of a summary report and a press release. In these, the authorities called on professionals in the insurance, banking and financial sectors to exercise greater vigilance with regard to vulnerable elderly customers, and to take on board the lessons learned from the financial industry working group's thematic workshops by 2022.

Between 16 September and 7 October 2022, the ACPR and AMF conducted 16 bilateral interviews with banks, insurance companies and industry federations to find out what progress institutions had made in this area. The ACPR and the AMF would like to thank all participants for the fruitful discussions held during these bilateral meetings.

This note sets out how the market has progressed in implementing the three main recommendations formulated by the authorities in 2021, and looks at the most innovative initiatives put forward by institutions. The authorities do not express an opinion in this note on the compliance of the actions taken.

Following the studies carried out with the financial industry in 2019 and 2020, the ACPR and the AMF called on "all financial professionals to consider these elements in order to:

(1) implement or further develop awareness-raising and/or training initiatives for advisors on the potential vulnerabilities of senior customers, in order to provide better support for these customers and ensure that their financial decisions are based on informed consent;

(2) increase the support provided and attention paid internally on these matters, by introducing the role of a "vulnerability officer", who would be responsible for promoting this approach among the institution’s management and ensuring that it is implemented in business practices and monitored;

(3) increase vigilance to improve risk prevention, by strengthening internal procedures and by implementing controls to limit the risk of mis-selling, which causes harm to customers, and the risk of litigation for the institution".

1. TRAINING ADVISORS AND PROMOTING PREVENTIVE AWARENESS AMONG CUSTOMERS: SIGNIFICANT PROGRESS TO BE SYSTEMATISED AND EMBEDDED OVER TIME

The majority of institutions (10 out of 14) have set up dedicated training programmes, ranging from online group courses to face-to-face training, and even qualification courses for some specialist advisors. In some cases, this training is mandatory as part of the integration training programme which immediately follows the recruitment of a new advisor. This issue is also addressed by awareness campaigns.

In both cases, as is usually the case in the field of professional training, the initiative is rolled out using specific teaching materials. Situations of vulnerability are documented in practical guides and fact sheets, or illustrated during training courses for advisors. Interactive formats are available for advisors, with feedback on real cases.

The topics covered in these training courses include the characteristics and consequences of ageing, legal obligations, criteria for detecting potential vulnerability and good practices in dealing with vulnerable elderly people. Some institutions define potentially vulnerable customers based on risk factors and a range of indicators[1], including their age, changes in their behaviour and significant life

[1] In addition to the issues associated with ageing, the various categories – which vary from one establishment to another (see below) – notably relate to cognitive difficulties (comprehension, expression, change in customer behaviour, such as a

events (bereavement, serious illness, job loss, etc.). Circulars, newsletters and practical information sheets have been produced to support commercial networks in their approach to vulnerable elderly people.

Examples of criteria considered to detect potential vulnerabilities during in-branch meetings:
• Difficulties in understanding or reasoning; • Unusual behaviour or comments; • Unusual physical appearance or clothing; • Difficulty in using everyday objects; • Difficulty in communicating ideas; • Difficulty in finding one's bearings in time or space; • Difficulty in staying focused on the conversation; • Difficulty in recognising people; • Difficulties in accessing and using IT tools; • Geographical or relational isolation; • Emotional distress.

It should be noted that these criteria are cumulative, enabling the advisor to identify a potential situation of vulnerability.

In addition, one institution has entered into a partnership with the Fondation Médéric Alzheimer (FMA), under which the FMA carries out a qualitative and quantitative survey among advisors prior to the training course to adapt the content more effectively. The FMA has also provided a range of short audio-visual content and questionnaires to help each advisor detect delicate situations and adapt their advice accordingly, as well as a charter setting out good practices. In parallel with these training initiatives, and often continuing them, preventive customer awareness campaigns are conducted.

All institutions said that they deal with the issues of power of attorney, retirement, inheritance and long-term care with their customers. Some institutions (6 out of 14) schedule appointments at key ages on the transition to retirement (in advance or from the first payment by the pension fund) and to address any new needs (carers, mandates, transfers, etc.). However, these meetings often seem to be organised at the discretion of the advisor, meaning that no real institutional policy has yet been defined. In some institutions, reminders are available either directly on the advisors' workstations or in the customer relationship management system.

ACCESSIBILITY
In order to ensure customer accessibility, measures are implemented to improve the readability of information (font size, use of specific ergonomics and simple vocabulary, etc.). For the visually and hearing impaired, websites and branches have adapted to suit the special needs of these customer groups. To promote digital inclusion, some stakeholders organise their own training courses, setting up partnerships with third-party suppliers or setting up support channels for their customers (via web chat and telephone). One institution stated that, in exceptional cases, advisors may visit customers at home if they have reduced mobility. Such visits are rare and highly supervised (line manager and a lawyer).

customer who previously had a good understanding of financial matters no longer does, unusual or contradictory financial transactions, etc.), physical difficulties (linked to a disability, etc.), difficulties in dealing with family members, difficulties linked to digital inclusion and a lack of autonomy with digital tools, as well as customer behaviour with regard to their accounts and life circumstances (bereavement, geographical isolation, retirement, etc.).

Situations of vulnerability are mostly observed during face-to-face appointments, based on the elderly customer's behaviour or information reported by those around them. Atypical transactions or inactivity may also be observed on accounts and represent the first signs of vulnerability for the advisor. Some institutions (5 out of 14) emphasise that vulnerability detection relies primarily on the advisor's intuition. Although this approach confirms the advisor’s key role in the customer relationship, it could prove too restrictive. It probably fails to sufficiently raise awareness of what is at stake, unless it is supplemented by a more comprehensive system to protect the institution and its customers against what is becoming a growing risk, given demographic trends.

KEY TAKEAWAYS:

- It would appear to be good practice for institutions to adopt a proactive approach to the training of advisors, based on shared definitions and criteria, and concrete cases relating to ageing and vulnerability.
- Identifying factual indicators that might point to potential vulnerability or "disengagement" would provide institutions with a series of alerts that they could analyse to deal with or remedy situations.
- These factual indicators could be used as a complement to advisors’ own perceptions and intuition, in order to develop an effective risk prevention policy that is consistent and cross-cutting throughout the customer journey.

2. Creation of the role of a "vulnerability officer": a role that has been validated by institutions but is still being developed

One of the recommendations for ensuring effective vigilance with regard to vulnerable elderly people is to have dedicated representatives within institutions to deal with issues related to these customers. These representatives would exercise the necessary vigilance within the organisation and would be able to set up or act as a “second set of eyes” for the advisor.

Some institutions (6 out of 14) have appointed a “vulnerability officer” or “senior customer officer”. Their responsibilities vary from one institution to another and depend on how experienced the institution is on the subject of vulnerable seniors. The ways in which this is implemented also vary widely, depending on how each structure is organised and the extent to which the cross-cutting nature of this function is taken into account.

For some stakeholders, the role of the officer is to facilitate and lead, in the manner of a project manager. In terms of geographical location, some institutions have several officers located in different parts of the country, while the majority have appointed a single officer at national level, who is dedicated solely to this function (1 institution) or has other responsibilities, and often reports to the compliance or corporate social responsibility department.

The duties of the officer are generally listed as being as follows:

- Helping advisors with their practical questions;
- Participating in training and sales activities;
- Monitoring alerts concerning elderly customers;
- Checking the files of vulnerable elderly customers;
- Identifying and disseminating good practices in this area

Some institutions have introduced a personalised system based around a “vulnerability officer”, while others have opted for a more collective approach.

In fact, half of institutions (7 out of 14) have introduced the possibility for advisors to seek a second opinion from a line manager or a legal, compliance or risk department. To help advisors manage complex cases, one institution has set up a discernment committee, made up of the various professions within the establishment, which meets as required.

KEY TAKEAWAYS:

- The implementation of a personalised system structured around a vulnerability officer means that the identification of vulnerable customers is centralised and therefore more effective, and that concerns are reported to the appropriate hierarchical level. However, to implement such an organisation, the institution needs to make sure there that there is no conflict of interest between the “vulnerability officer’s” role and their other responsibilities.
- The introduction of systems tailored to the configuration of institutions’ distribution networks seems to reflect a desire to deal with the issue in a way that fits with the commercial reality on the ground, which seems positive
- Regardless of the organisational choice made, the systematic double-check used when there is doubt about the customer’s informed consent is good practice. The introduction of a collective approach to identifying and analysing situations through a discernment committee appears sound. The way local support on the ground is combined with the policy of preventing inappropriate marketing must be adapted to the culture and organisation of the institution to achieve the best effects.

3. Strengthening marketing procedures and internal controls: an area worth developing

Institutions that are most advanced in this area are seeking to integrate this vigilance upstream and downstream in the marketing process. This involves taking it into account in the definition of the marketing strategy (product governance, distribution strategy, etc.), , rolling it out to the operational marketing processes using methods and tools that facilitate customer understanding and secure decision-making, and then backing this up with appropriate and regular internal control systems. This integrated approach aims to prevent the risk of inappropriate marketing. It is an integral part of the process of ensuring that products are suitable for customers in terms of liquidity, holding periods, ability to withstand losses, etc., as defined in MiFID 2 and the DDA.

One of the key factors put forward by institutions is the age of the financial savings holder. During the workshops organised by the financial industry working group in 2019 and 2020, it became clear that defining the vulnerability of elderly people is complex, given the wide variety of ways in which individuals cope with ageing, and that age is not a sufficient indicator of a person's abilities.

However, in order to ensure greater vigilance with regard to vulnerable elderly customers, most of the institutions (13 out of 14) use a threshold age.

Some institutions (6 out of 14), and not just insurers, refer to the ethical commitment of France Assureurs, which defines a threshold age of 85. "*Subscriptions at very advanced ages under conditions that give rise to a significant risk of subsequent disputes should be avoided*. *The insurance company must put in place a systematic examination procedure for subscription requests above a certain age and, in any event, from the age of 85, to verify the appropriateness of the life insurance* *transaction envisaged for the subscriber*"[2]. Some of these institutions go further and prohibit certain transactions over the age of 85.

Other institutions (7 out of 14) have opted for different thresholds, often with stages (at 65, 75 or 80 years of age) that determine the level of supervision the institutions must provide for customer transactions. In some institutions, complex or risky products can only be subscribed in a branch (and not online) or after double validation (by a colleague or manager), or after several appointments/call-backs, or after the customer has been given the required time to think before signing. Certain additional documents must be completed by the advisor or the customer to validate the explanations provided, to justify more precisely the extent to which the product being considered for subscription is appropriate or adapted to the customer's specifications and needs, and to ensure the customer consents.

At some online institutions, complex products can only be subscribed online after the customer has made a prior request to the advisor (using a form). The customer is then systematically contacted by telephone to ensure that he/she is the originator of the request and has understood the product to which he/she wishes to subscribe.

Other stakeholders also prohibit prospecting, direct marketing or the promotion of risky/complex products to customers above a certain age. Some limit new subscriptions to certain products by customers aged over 85 by taking into account the investment horizon, or impose a prudent investment profile on these customers.

Finally, some institutions offer customers aged 65 and over the opportunity to be assisted by a second advisor from the institution, to ensure that they understand the product properly, or systematically offer customers (generally aged 75 and over) the opportunity to be assisted by a member of their family or a trusted third party.

These principles of prohibition or limitation can often be softened by introducing very tightly controlled exemptions within institutions (internal validation process, drafting of report on the unsuitability of sales to justify marketing, use of a dedicated internal committee).

With regard to insurance policies, institutions reported that they were particularly vigilant about updating beneficiary clauses. Action is being taken to update outstanding policies. Some have developed specific tools to format the clause, make it easy to find and avoid any risk of misinterpretation. In some institutions, it is not possible to change the beneficiary clause online over a certain age; this is designed to protect the customer and ensure that they have initiated the change.

All the marketing procedures put in place are secured by level 1 and 2 controls. Level 1 controls are generally carried out during the subscription process (e.g. quality of advice, suitability, compliant signature, etc.).

Level 2 controls are determined due part of the annual control plan. These are generally thematic controls carried out post-subscription on samples (e.g. transactions of more than €10,000 by an elderly customer, compliance with the double validation procedure when marketing products). Some institutions (5) conduct thematic or sampling controls on a minimum share of elderly customer files.

[2] charte_deontologie_-07_2022v2.pdf (franceassureurs.fr)

At some institutions (2), algorithms are used to scan 100% of files and to monitor or check certain files more closely (e.g. atypical account movements).

KEY TAKEAWAYS:
• Level 2 controls which specifically target elderly people have been implemented by a limited number of institutions. This is mainly due to the recent introduction of enhanced vigilance procedures and level 1 controls targeting elderly people. • The authorities strongly encourage institutions to conduct more level 2 controls targeted at elderly people to assess the effectiveness of the measures put in place and make any necessary changes. When combined with annual reporting to the governance bodies responsible for compliance risk, these control plans would adequately cover the risk of inappropriate marketing to vulnerable elderly people.

4. INNOVATIONS OBSERVED

Technological advances will undoubtedly provide innovative solutions for the future. Some institutions are already looking at pre-detection methods using data available in information systems and predictive models.

Two of the institutions said that they were using innovative systems based on a range of indicators to detect vulnerable elderly customers.

The first has incorporated into its internal policy the principles drawn up by the UK's Financial Conduct Authority to promote the financial inclusion of elderly people. Indicators include a change in the customer's behaviour, information disclosed by third parties or a deterioration in financial knowledge. These indicators are weighted by risk factors, mainly linked to age (over 65), cognitive loss, temporary vulnerability (divorce, bereavement) or reduced ability to understand language. If there is any doubt about the vulnerability of an identified customer, the advisor can ask for internal support (direct line management and/or compliance department).

The second institution reported that it had developed a method of automatically pre-detecting the vulnerability of elderly people based on the management rules of an information system. This management rule is based on 11 banking criteria[3]. If a customer is identified as being vulnerable using this method, the advisor is made aware of the situation and can exercise greater vigilance. Prospecting to customers detected as potentially vulnerable is not permitted.

Lastly, one online institution is exploring behavioural biometrics through software that would identify whether the remotely located person is actually the elderly customer (and not a third party acting in their place), by taking into account, for example, habits in the use of IT tools.

KEY TAKEAWAYS
• These innovative practices demonstrate a genuine concern to take into account the demographic transition and the risks faced by vulnerable populations. They offer the potential for new solutions to protect individuals. They must always be assessed in light of

[3] Housing situation, number of people declared in the household, number of children declared, age, possession of a remote assistance product, possession of an account with a proxy, use of remote banking tools, number of overdrafts over the last 3 months, number of card transactions abroad over one year, presence of a stop payment on a lost or stolen card or cheque over one year, number of withdrawals over one year.

this objective, but also with regard to the protection of personal data and non-discrimination.

- In this respect, it should be remembered that any automated system must be subject to a defined governance system, which includes regular checks to ensure it remains relevant over time and to make any necessary adjustments. It is not a substitute for human analysis and decision-making but can facilitate and safeguard these processes.

CONCLUSION

Interviews with the institutions enabled the ACPR and AMF to note the progress made on the issue of elderly customer vulnerability in the marketing of products by financial institutions.

The ACPR and AMF note the commitment and willingness of the institutions they met and encourage them to continue their efforts.

While training and awareness-raising initiatives are being implemented across the institutions, many are still in the process of formally defining the role of a “vulnerability officer”.

There are wide disparities between institutions, with some genuinely incorporating the issue of ageing into their business strategy and operational processes, and others claiming to have strong principles on the matter but without translating them into actions.

The controls carried out on this type of customer are still too weak. The authorities would like institutions to develop a more comprehensive approach to the issue of vulnerability in their internal controls. Big data and artificial intelligence can contribute to this objective.

During the course of this work, it was repeatedly confirmed that elderly customer vulnerability is a complex issue and requires a multi-faceted strategy, including human and IT resources, and several viewpoints at different levels. These situations must be dealt with intelligently, to ensure the security of all stakeholders while always respecting the primacy of the customer's interests.