UNTIL DEATH DO WE PART: SENIORS AND DEBT

Part of a series of white papers concerning consumers and their struggle with the debt collection industry

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The New Reality of an Older America

Our population is aging and the impact is dramatic.

The number of Americans age 65 and over will double over the next 15 years, rising to nearly 80 million and comprise 20% of the total population. Soon the percentage of older Americans will outnumber that of children. As birth rates fall and longevity increases, this shift toward older age groups isn't just about a specific generation, or caring for the elderly, it is about an entirely new reality of trying to live on a fixed income, with soaring costs and longer lifespans.

Seniors are entering retirement – their golden years – with debt loads that are unprecedented. This scenario is partly the result of the unexpected loss of financial assets over the past 15 years, the concomitant assumption of too much student loan burden of their children, longer life spans, rising costs of medical care, and – to some degree – the failure to anticipate and plan for this different environment.

The purpose of this White Paper is to highlight the magnitude of financial challenges faced daily by a significant number of older Americans and to offer a plan of action that would revolutionize the way we deal with the debt problems of seniors.

Demographics Changes Everything

Americans are living longer and healthier lives. A child born today can expect to live 78 years; by 2050 life expectancy is projected to be 83 and some estimate even higher.

Medicare and Social Security, already under financial stress, rely on taxes paid by current workers to support current retirees. In 1950, there were eight working-age people for each person 65 or older. Today there are five. In 2050, there will be three.

Age demographics are also changing the way we work. With unemployment recently higher than it has been in a generation, it has been extremely difficult to find a good job, and almost impossible if you are over 50. Consequently, older members of the workforce have had little choice but to consume their assets and take on debt in an attempt to maintain their "status quo", shifting even more pressure to their retirement years.

Retirement is also changing. Twenty years ago, many people could put their retirement on autopilot. Many workers had traditional defined-benefit pension plans, retiree health benefits and a sustained real estate market that created real wealth as a cushion against economic shocks.

In today's workplace, if an employer provides a retirement plan – and that is a big IF – most workers find themselves participating in 401(k) type plans that shift risk away from employers and onto the employee. Fewer employers provide health benefits to their employees, much less their retirees. Sadly, with the recent destabilization of the housing market, much of the cushion of home equity has been wiped away.

This unique combination of demographic and societal forces places at risk the secure retirement for millions of Americans.

Debt is a Serious Threat to Successful Retirement

For the past several decades, millions of Senior Citizens have been able to enjoy relatively safe retirements. But, more and more Americans are spending their golden years racking up debt – a trend that threatens the national economy and may alter the traditional pattern of wealth being transferred from older to younger generations.

It may be hard to imagine Grandma unable to pay her bills or Grandpa being hounded by debt collectors. But for millions of Americans, this is the new reality of retirement.

Not too long ago, in general, the older we got, the more financially secure we were, thanks to Social Security, employer-provided pensions and a healthy savings rate buoyed by a strong economy. That scenario no longer exists for seniors who now spend their "golden years" juggling bills and fending off debt collectors.

They are trapped at the intersection of fixed incomes, longer lifespans, rapidly inflating costs of health care, and higher debt burdens. It is not a pretty picture.

- Fully one-third of senior households has no money left over each month or is in debt after meeting essential expenses.[1]
- Almost 75% of single Social Security recipients aged 65+ depend on Social Security for all or most of their monthly income.[2]
- Fourteen percent of adults 65+ face retirement with negative net worth.[3]
- Millions of older adults struggle to meet their monthly expenses, even though they are not considered 'poor' because they live above the federal poverty level, which is $11,770 for a single elder.[4]

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[1] Institute on Assets and Social Policy, The Heller School for Social Policy and Management, Brandeis University, *Post-Recession Senior Insecurity Remains High*, http://iasp.brandeis.edu/research/Senior.html

[2] Center for Retirement Research at Boston College, *Are Retirees Falling Short? Reconciling the Conflicting Evidence* http://crr.bc.edu/working-papers/are-retirees-falling-short-reconciling-the-conflicting-evidence/

[3] United States Courts, *Aging and Bankruptcy*, http://www.uscourts.gov/News/TheThirdBranch/10-11-01/Aging_and_Bankruptcy.aspx

[4] Ibid. 1

- More than 46% of seniors die with "virtually no financial assets".[5]

Aging African-Americans and Latino-Americans fare the worst, especially for households headed by someone over 75 years of age. A high 9 out of 10 African-Americans and Latino-Americans do not have sufficient resources to sustain their needs.[6]

Money woes among the elderly affect not only their physical and mental health, but also put a strain to their relationships brought about by blames and regrets over bad decisions and actions of the past. Symptomatic is a rise in the divorce rate of those over 50, which has doubled in the past 20 years; a phenomenon that will likely only grow with an aging Boomer population. This rise in the divorce rate along with women outliving their spouses by five to six years is fueling the trend of elders who live alone.[7]

As Boomers reach retirement age – 8,000 per day, according to one estimate[8] – they will find a retirement landscape that is radically different than what they expected. Some may have to keep working to pay their mortgage, and others will find themselves cutting back on every expense and making compromises they never anticipated.

How Debt Hobbles Older Americans

Debt has become an accepted part of life and more Americans are reaching their 60s with so much debt they can't afford to retire. The thinking has been that most people would pay off their debts before retiring. But as wages have barely kept up with rising prices over the past 35 years, Americans have pushed their debt higher. Now, people are postponing retirement, cutting living standards or both.

Rising household debt is a game changer for seniors:

- Household debt for the typical over 65 doubled between 2000 and 2011.[9]
- Credit card debt has more than doubled for seniors since the great recession [10] with a full third of senior households now carrying credit card debt.
- Half of all indebted households headed by an older American carried medical debt on their credit cards.[11]

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[5] MIT Technology Review, *The Economics of Retirement*, James Poterba, http://www.technologyreview.com/article/534646/the-economics-of-retirement/

[6] Financesonline.com, *Top Money Problems of American Seniors: How Retirees Deal With Debt?* http://financesonline.com/top-money-problems-of-american-seniors/

[7] The Fiscal Times, *The High Cost of Growing Old Alone*, http://www.thefiscaltimes.com/print/55172

[8] AARP, *Baby Boomers Turning 65*, http://www.aarp.org/personal-growth/transitions/boomers_65/

[9] US Census Bureau, *Distribution of Wealth and Debt of Households,* http://www.census.gov/people/wealth/data/disttables.html

[10] Employee Benefits Research Institute, *Debt of the Elderly and Near Elderly 1992-2013*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2557538

[11] Demos, *In the Red: Older Americans and Credit Card Debt*, http://www.demos.org/publication/red-older-americans-and-credit-card-debt

Debt is a constant source of stress, and in particular, chronic stress, for those who are reaching retirement or in retirement.[12] Many seniors in retirement already possess a feeling of powerlessness as time slips away. Combine that state of mind with too much debt and the emotions that may have gotten them into debt in the first place, and they feel trapped in quicksand.

Mortgage Default Rates Soar for Seniors

The Consumer Financial Protection Bureau (CFPB) is concerned about the rapidly increasing default rate on mortgages held by Senior Citizens. A study done by the CFPB shows that the number of Senior Citizens with mortgage debt has increased, the amount of debt owed has increased, and default rates have risen.

- Nearly a third of homeowners 65 and older had a mortgage in 2011, up from 22% in 2001, according to an analysis from the Consumer Financial Protection Bureau.[13]
- Additional data from the Federal Reserve shows that consumers over age 75 had the greatest increase during this period – the proportion of consumers 75 and older with mortgage debt more than doubled from 8.4% to 21.2%.[14]
- Between 2007 and 2011 alone, more than 1.5 million Americans age 50+ lost their homes as a result of the mortgage crisis.[15]

Moreover, as a result of carrying increased mortgage debt, many older Americans have accrued less home equity than their age group did a decade ago. Less home equity means less accumulated net worth for many consumers.[16] In addition to having less home equity, older consumers pay significantly more in housing costs when they have a mortgage. Older homeowners with a mortgage spent 290 percent more per month than their counterparts with no mortgage – median amount of $1257 per month compared to $434 per month.[17]

For decades, Americans worked hard to pay off their mortgages before retirement, an aspiration that when achieved was celebrated with mortgage-burning parties. But for the latest retirees, reaching that goal, if they ever had it, is increasingly less likely.

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[12] Janet Taylor, psychiatrist and through leader for AARP's Life Re-Imagined, http://www.usatoday.com/story/money/columnist/brooks/2014/08/12/retirement-debt-budget-mortgage/13867549/

[13] CFPB, Office for Older Americans, *Snapshot of older consumers and mortgage debt*, May 2014, http://www.consumerfinance.gov/reports/snapshot-of-older-consumers-and-mortgage-debt/

[14] Federal Reserve Board, *2010 Survey of Consumer Finances Chartbook,* http://www.federalreserve.gov/econresdata/scf/scf_2010.htm

[15] AARP Public Policy Institute, *Nightmare on Main Street: Older Americans and the Mortgage Market Crisis*, http://www.aarp.org/money/credit-loans-debt/info-07-2012/nightmare-on-main-street-AARP-ppi-cons-prot.html

[16] Census Bureau, Table 1. Median Value of Assets for Households, by Type of Asset Owned and Selected Characteristics, http://www.census.gov/people/wealth/files/Wealth_Tables_2011.xlsx

[17] Census Bureau, Population 65 Years and Over, http://www.census.gov/econresdata/scf/files/65+intheunitedstates.pdf

Boomers bought homes later in life, and with smaller down payments, than previous generations. Many refinanced during the housing bubble and used cash from their home equity to pay off other debt, take vacations or put children through college. Job losses have delayed attempts to pay off mortgages. Many Boomers took in their adult children after the recent financial collapse, refinancing to help their kids weather a brutal job market.

More Seniors Carry Credit Card Debt to Their Grave

Beginning in 2006, problems in the housing market became evident and house prices peaked. In 2008, the financial crisis changed the way households of all ages relate to credit. During the height of the housing bubble, lenders offered easy credit and increasing numbers of subprime loans, many of which were deceptive, that ultimately proved dangerous to the national economy. When the financial crisis hit, the fallout struck consumers quickly. Home values declined, people lost their jobs, recession set in, and credit card lenders started tightening standards, cutting off credit, and cancelling cards.

The impact to older Americans extended far beyond evaporated home equity and unemployment.

- While older Americans have generally enjoyed a lower unemployment rate than people under age 50, those who lose their jobs are, on average, out of work longer than their younger counterparts.[18]
- Older workers who do find employment are often hired at a lower salary than the one they lost.

During difficult times, Americans of all ages turn to credit cards for protection against economic instability and stagnant or declining income. Older Americans began borrowing to make ends meet, paying for basic living expenses such as rent or mortgage payments, groceries, utilities or insurance because they did not have enough money in the checking or savings accounts.

In addition to managing daily expenses, Americans 50+ use credit cards as a high-interest "safety net" to cope with emergency car and home repairs or unexpected medical bills.

Older Americans are more likely to take on credit card debt in an effort to assist other family members. This reflects a common economic reality: younger people facing financial stress often turn to their parents for help, and in doing so, sometimes weaken the financial security of the older generation.

Out-of-pocket medical expenses are a major contributor to credit card debt for Americans of all ages but especially so for older Americans who tend to have more and larger health issues. The

[18] AARP Public Policy Institute, *The Employment Situation, September 2012: Overall Drop in Unemployment Does Not Extend to the Older Workforce,* Fact Sheet 272, http://www.aarp.org/content/dam/aarp/research/public_policy_institute/econ_sec/2012/the-employment-situation-october-2012-AARP-ppi-econ-sec.pdf

growing cost of health care puts pressure on household budgets. Extended periods of unemployment add to this stress, since workers who are out of a job cannot rely on employer-provided health insurance. When medical expenses arise they are often unplanned and unavoidable, forcing households to take on credit card debt to cover the cost.

More than four in five Americans age 50+ that are carrying credit card debt incurred some out-of-pocket medical expense in the last five years and contributed to the current credit card debt.

All of these factors have contributed to extraordinary level of credit card debt carried by seniors[19]:

- Older Americans now have higher overall credit card debt than younger people. Americans age 50+ have an average combined balance of $8278 of credit card debt compared with $6258 for the under-50 population.
- Half of all 50+ households carry medical expenses on their credit cards.
- Half of all 50+ households carry auto repairs on their credit cards and 38% carry home repairs.
- About 23% of people age 50+ report that money given to, or used to pay the debts of relatives added to the balance on their credit card debt.
- Sixteen percent of Americans age 50+ used their home equity to pay down credit card debt by refinancing, obtaining a second mortgage, or taking out a home equity loan.
- Older Americans are significantly less likely than younger people to run up credit card debt purchasing nonessential goods and services. Credit card debt among older Americans is primarily a reflection of difficult economic times, not a lack of personal financial responsibility.

The Recession Hit Seniors Especially Hard

More than half of the adults in the U.S. labor force (55%) have experienced some work-related hardship — a spell of unemployment, a cut in pay, a reduction in hours or an involuntary move to part-time work. In addition, the bursting of the pre-recession housing and stock market bubbles has shrunk the wealth of the average American household by an estimated 20%, the deepest such decline in the post-World War II era.[20]

The recession was particularly hard on middle-income and lower-income Boomers, in large part due to a perfect storm of unemployment, fixed expenses and a declining value of real estate and the stock market. The Pew Charitable Trusts estimates that those Boomers born between 1946

[19] Ibid. 11
[20] The Pew Charitable Trusts, *How the Great Recession Has Changed Life in America*, http://www.pewsocialtrends.org/2010/06/30/how-the-great-recession-has-changed-life-in-america/5/

and 1955 lost 28 percent of median net worth during the Great Recession as of 2010, while Boomers born after that lost 25 percent of median net worth.[21]

With little choice, many in this generation turned to credit cards to cover their expenses, and now they are entering retirement with too much credit card debt – debt they probably won't be able to pay back in their lifetime.

A Surprising Source of Debt for Seniors is Student Loans

Often when the topic of student loan debt is brought up, most people automatically think of stressed out Millennials or Generation X-ers. However, the problem is also increasingly impacting an older part of the population. Although only a small percentage of older Americans carry student loans, those that do will almost surely struggle with that debt until the day they die.

Student loan debt is unlike any other debt in the world. It can rarely be wiped out in bankruptcy. The government can, without going to court, seize a portion of a Social Security check to be applied to the student loan. For any senior unable to pay a student loan the only practical escape is death.

A surprisingly large number of seniors are paying on student loans – more than 6.3 million Americans 50 and older have a student loan.[22] The typical balance is about $12,000 compared with $13,000 for younger borrowers. But, debt levels have grown much faster for older people. While overall student debt doubled between 2005 and 2013, borrowers 65 and older increased their student loan debt by more than seven times in that same period.[23]

Borrowers aged 65 and older are more likely to hold defaulted loans, which can lead to the government garnishing their Social Security disability, retirement or survivor benefits to pay off these loans. About 27% of loans held by those 64 to 74 were in default and more than half of all loans held by those 75 or older were in default. The number of those whose Social Security benefits were garnished rose to 155,000 in 2013 and represented collections of $150 million[24] – an average of slightly more than $80 per month for each garnishee.

Medical Debt Has the Greatest Potential to Harm Seniors

A new poll by The Senior Citizens League had unsurprising results. When asked – "What retirement cost is hardest for you to cover?" – just as many respondents said healthcare and prescription costs were

[21] The Pew Charitable Trusts, *Retirement Security Across Generations*, http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/retirement-security-across-generations
[22] Federal Reserve Bank of New York, *Grading Student Loans*, http://libertystreeteconomics.newyorkfed.org/2012/03/grading-student-loans.html#.VQyCz-F8ujw
[23] United States Government Accountability Office, *Older Americans: Inability to Repay Student Loans May Affect Financial Security of a Small Percentage of Retirees,* http://www.gao.gov/products/GAO-14-866T
[24] Ibid. 23

most difficult, 40% – as those who said housing, heat and utilities, another 40%. Sixteen percent said nourishing food, and 4% said transportation, was their most difficult cost.[25]

Growth in healthcare costs occurs two ways. In addition to healthcare cost growth due to age changes, healthcare costs also grow as a function of simple inflation. The combination consumes an ever larger share of Social Security income over the course of retirement. For example, according to the 2014 Medicare Trustee's report, in 1970 (shortly after the start of Medicare) average Part B benefits were only one-twelfth the amount of average Social Security benefits. Medicare costs today often consume up to half a retiree's Social Security benefit.[26]

The future is even scarier with health care costs predicted to rise from 15% of GDP to 29% of GDP over the next 25 years.[27]

The fact that seniors worry about their ability to afford healthcare is unsurprising. Longer life spans and rapidly inflating costs of health care contribute to future uncertainty. Medical debt has driven the financial problems of seniors to the point where the number of older Americans filing for bankruptcy has increased at an alarming rate, making them the fastest growing age group in the bankruptcy courts.[28]

Seniors bear the direct burden of much of health care costs. Even though most will benefit from Medicare coverage, Medicare pays for only about 60 percent of retiree health care costs and, on its own, has no limit on out-of-pocket spending.[29]

A typical 65-year-old couple retiring in 2014 will need $220,000 in total to pay for medical expenses throughout their retirement (17 years for men, 20 years for women, on average), not including nursing home or long-term care.[30] In 2011 only 20% of households entering retirement at 65 met that target.[31]

A Strategy to Help Older Americans Cope With Debt

The purpose of this White Paper is to highlight the magnitude of financial challenges faced daily by the overwhelming majority of older Americans. It is challenging to develop meaningful and yet

[25] Senior Citizens League, *Most Difficult Cost in Retirement? Retirees Evenly Split Between Healthcare and Housing,* http://seniorsleague.org/2015/difficult-cost-retirement-retirees-evenly-split-housing-healthcare-says-new-poll-senior-citizens-league/

[26] 2014 Annual Report of the Medicare Trustees, https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2014.pdf .

[27] National Bureau of Economic Research, *Forecasting Health Care Costs,* http://www.nber.org/aginghealth/2008no4/w14361.html

[28] ABI Journal, American Bankruptcy Institute, *Bankruptcy by the Numbers,* https://www.journal.abi.org/sites/default/files/2014/march/numbers.pdf

[29] Demos, *How Out-of-Pocket Medical Costs Drive Even Insured Americans Into Debt,* http://www.demos.org/blog/how-out-pocket-medical-costs-drive-even-insured-older-americans-debt

[30] Fidelity Investments Retiree Health Care Cost Estimate (assumes that individuals do not have employer-provided health care coverage but do qualify for Medicare), https://www.fidelity.com/viewpoints/retirement/health-care-costs-when-you-retire

[31] US Census Bureau, *Wealth Distribution 2000 to 2011,* https://www.census.gov/people/wealth/files/Wealth%20distribution%202000%20to%202011.pdf

actionable suggestions that might be within the influence of a small organizations such as CFS2 – or even larger advocacy organizations such as AARP or the National Consumer Law Center.

For example, issues such as entitlement reform and the Affordable Care Act exceed the scope of this analysis. Smaller but yet concrete recommendations such as reform of federal laws concerning how non-profit hospitals establish pricing for low-income patients or state laws regarding garnishment of financial assets would have an enormous impact where they might be enacted. However, such reforms are especially difficult because the centers of influence are highly dispersed and coordination is almost impossible.

However, there is an effective strategy that would have an immediate and beneficial impact on seniors and the implementation of the strategy lies entirely within the United States Congress. That strategy is the enactment of legislation that would incentivize creditors (lenders, banks, hospitals, and other service providers who are owners of a consumer financial obligation) to move the obligations of seniors out of the mainstream of the consumer collection machine.

A Targeted Tax Credit to Benefit Debt-Burdened Seniors

It is a well-accepted premise that tax policy will induce behaviors of both businesses and consumers. In this case, Congress should adopt a tax credit that would fairly compensate a creditor for donating qualified debts of seniors to specially qualified 501(c)(3) non-profit charitable organizations who will work with seniors to provide financial counseling and support.

This is not a proposal that creditors should simply forgive the debt owed by consumers. It is however an approach that would allow the restructure of the debt in such a way that the creditor's balance sheet is cleared and the Senior has a fresh opportunity to recast the financial obligation within the reality of his or her financial condition and avoid the negative implications of tax liabilities that might be created by an outright forgiveness of the debt.

The key elements of the structure of the tax credit would be:

- Creditors donate delinquent consumer financial obligations and debts to qualified non-profit organizations (organized under Section 501(C)(3) of the IRS Code).
- The Creditor that makes the donation of the delinquent financial obligation of a consumer who is more than 62 years of age at the time of the donation would receive a tax credit equal to 40% of the balance of the delinquent financial obligation donated.
- The delinquent financial obligation of the senior would become the property of the non-profit organization chosen by the lender to receive the obligation.
- The non-profit organization would be required to restructure the financial obligation in such a manner that conforms to the ability of the senior. Additionally, the non-profit organization would be required to provide financial counseling and similar services to help the senior achieve as much financial stability as possible.
- The non-profit organization would be specifically forbidden to use any form of litigation or arbitration against the senior or the seizure of collateral of the senior. The non-profit organization would be forbidden to charge interest on the financial obligation. The mission of the non-profit would be to seek to establish a reasonable and affordable

payment plan with the senior as a method of funding the operations of the non-profit organization.
- There would be other rules that would prevent conflicts of interest or interconnections between the non-profit organization and the donor entity or any collection agency or debt buyer associated with the donor entity. Donor entities would be unable to act in a self-dealing manner.

A creative non-profit organization who is the recipient of the donated financial obligations will find other ways to assist seniors through advocacy. Potentially, they could even diminish the program of Treasury seizure of a portion of the senior's Social Security payment as the result of delinquent student loans to the degree that the non-profit organization can advocate for the senior with the Department of Education for forgiveness of the debt.

Benefits of the Targeted Tax Credit

It should be emphasized that the proposed Tax Credit is not a giveaway program for seniors. The Tax Credit program as recommended is very likely to pay for itself:

- a reduction of the rate of bankruptcy of Seniors,
- unclog the courts from needless debt collection lawsuits,
- a reduction of the amount of required public assistance for food stamps and other federal and state welfare benefits, and
- Keep seniors in control of financial assets such as homes and automobiles so that they are more independent to care for themselves.

Additionally, the Tax Credit would enable creditors to clear their balance sheet of delinquent debt in an efficient manner, avoid the expense of collection and recovery, and allow the creditor to focus on their core business without distraction or reallocation of resources. The efficiency of the Tax Credit would be a clear benefit to the creditor and stimulate additional taxable business for the creditor.

The Tax Credit program as proposed will eliminate the large majority of the abuses of seniors that relate to debt and will do so at minimum cost to the taxpayer.